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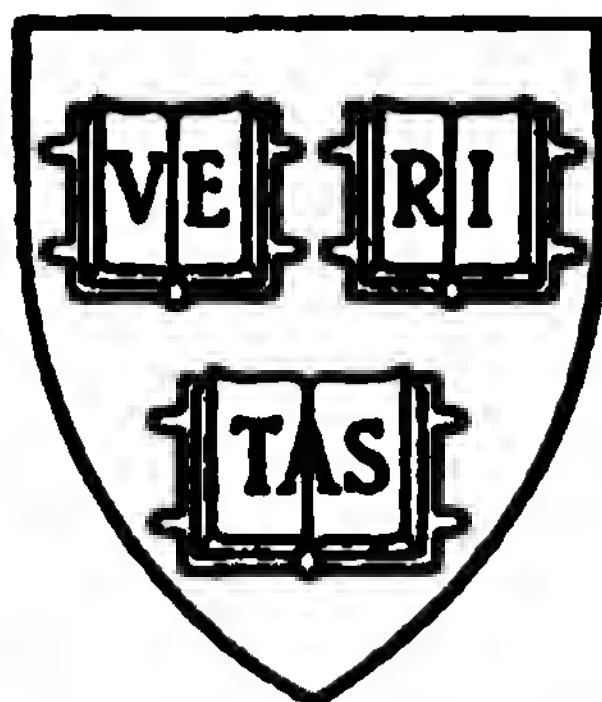
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Hagans

Brief Sketch of the Erection and  
Formation of the State of West  
Virginia from the Territory of  
Virginia

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# BRIEF SKETCH

—OF—

## THE ERECTION AND FORMATION

OF THE

# STATE OF WEST VIRGINIA

FROM

## THE TERRITORY OF VIRGINIA,

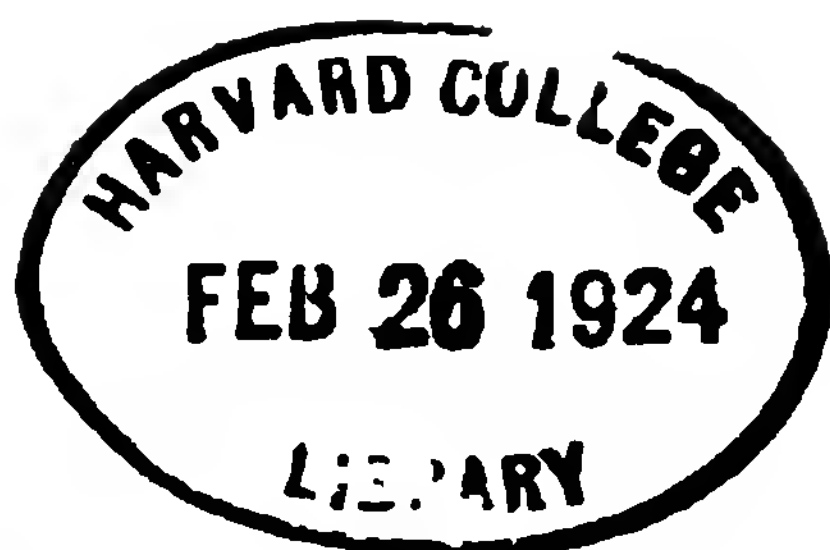
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## PREFACE.

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The following article appears as a prefix to the first volume of reported cases of the Supreme Court of Appeals of West Virginia, from the preface to which, as an explanation for its insertion in that volume, the following extract is taken: "Whilst it is not designed to attain to the dignity of formal history, is deemed proper in order that the events therein recorded may not pass from memory, and at the same time to provide some accessible memoranda, useful to the lawyer in his practice and convenient reference by all. The main events of the movement which culminated in the establishment of the state of West Virginia, are arranged in the order in which they transpired, together with such extraneous facts as it is thought proper to give, that the reader may arrive at an intelligent conclusion on the whole subject.

With what accuracy and faithfulness the duty (imposed by the Court) has been performed, the public must judge. No pretension to infallibility, either in style or judgment, is claimed."

It was written at the close of the great struggle, out of which sprang the vigorous young state within whose borders, the author was born. If it is tinged with the white heat of the conflict, the afterglow may not be unworthy. The duties of the hour were discharged; the then future has now become history.

THE AUTHOR.

MORGANTOWN, May, 1891.



SKETCH  
OF THE  
ERECTION AND FORMATION  
OF THE  
STATE OF WEST VIRGINIA,  
FROM  
THE TERRITORY OF VIRGINIA.

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PRIOR to the meeting of the peace conference at Washington, in January, 1861, the people of Virginia had been required to meet in convention, at their capital, by the legislature of the State. Governor John Letcher, the then executive of the State, influenced by the pressure of events, had convened the legislature by a proclamation; that body sitting biennially, the winter of 1860-61 was the period of vacation. The proclamation in its character was anomalous and its substance was suggestive of the times. The ostensible object was for the purposes of State legislation, among the most prominent of which was the ratification of the sale of the interest of the State in the corporation known as the James River and Kanawha Canal Company, to a body of French capitalists. It however contained an allusion to the State of the country, and declared that it was "to take into consideration the condition of public affairs, and determine calmly and wisely what action is necessary." In obedience to this summons the legislature met at Richmond on the 7th day of January, 1861. It was the first time, but once, since



the adoption of the constitution in 1851, that the interests of the State were thought to demand the interposition of an extra session. The true object and purpose of the call, although the same might have not been manifest to the chief executive officer of the State when deciding to call the body together, was soon developed. Early in the session, every influence that could be brought to bear, to oppose that action of the Federal government which the times so earnestly demanded, and every evidence of that moral support and encouragement, which those who are about entering upon a hazardous adventure require, was exhibited to the phrenzied gaze of the recreant southern sisters of the Old Dominion. In the message of the Governor he deplored the condition of the country with unaffected pain. He alleged that "the vile spirit of faction, which pollutes the fountain of national honor, and digs the grave of patriotism," showed itself on every side. He drew a bright picture of the progress of the American people since the formation of the Federal Union, and regarded the danger to perpetuity of that Union as imminent. The perils, he averred, could have been averted by a conference of the Southern States which had been sought by commissioners previously sent by South Carolina and Mississippi, Colonel Memminger of the former and Mr. Starke of the latter. He renewed his recommendation for a general convention of all the States, and argued that safety was thus only to be secured. The positions of the Cotton States and the Border States were contrasted, with a view to show that the former had acted precipitately and had not endeavored to secure the concurrent action of the Southern States, and that there was a distrust entertained by them of the Border States. He asserted that "South Carolina, a sovereign State, had a right to adopt the line of policy she had chosen." The North was charged with using every effort to confine slavery to the limits of the States where it existed, and exclude it from the territories; and that the statutes and speeches, which had been followed by actual raids on the borders with the object of exciting insurrection among the slaves, plainly showed the ulterior purposes. "The Union," he alleged, "is now disrupted; let the North bear the blame. They have brought the sad and deplorable results upon the

country, and the candid and honest men of the world will hold them responsible for the destruction of a government that has challenged the admiration and commanded the respect of the earth." He discussed the proposition for a call of a State convention to determine the position Virginia should take, and with an apology for opinion, declared that his firm conviction was in opposition to the measure; that no necessity existed for it nor did he conceive that any good practical result would be accomplished by it. He suggested the appointment of commissioners to visit the legislatures of the States that had passed laws to obstruct the operation of the fugitive slave act, to insist in the name of Virginia upon their unconditional repeal.

The question must be settled and the country restored to quietness and peace, therefore he insisted that, northern States must repeal the obnoxious statutes; there must be effective guarantees for the protection of slavery in the District of Columbia; that equality in the States and territories must be recognized, and the rights of persons and property adequately secured; that like guarantees must be given in the transmission of slaves between the slaveholding States; that rigid laws should be passed and enforced for the punishment of persons in the free States who should contribute money or furnish arms or in any manner aid or abet companies of men organized for the purposes of assailing the slaveholding States and inciting the slaves to insurrection, and that the Federal governments be deprived of the power to appoint persons to local offices in the slaveholding States, who were inimical to their institutions. He added that the will of Virginia would furnish an inflexible rule for the direction of his action, and her destiny should be his. The remainder of his message was directed to local interests, the subject of organizing more efficiently the militia occupying a considerable space. With this singular document before it, which proposed remedies that were held to be effectual, and yet, which declared the Union already destroyed, the legislature sat down to its labors. After seven days of brief but vehement discussion it passed a bill to call together a convention of the people of Virginia. Both houses had previously passed resolutions for the purpose of placing Virginia in the posi-



tion of mediator between the Federal government and the seceding States, and requested a suspension of all aggressive proceedings pending further negotiations for peace, which were subsequently amended by designating the period of sixty days for the suspension. During the pendency of the bill a substitute was offered in the House of Delegates, which proposed to submit to the people whether any convention should be held or not, which was voted down by a large majority.

The bill provided for the election of members in the manner prescribed for the election of members to the House of Delegates; the convention was to be composed of one hundred and fifty-two members, that number composing the House. Members were to be twenty-five years of age and actual citizens of the commonwealth. Provision was made for vacancies, for the mode of conducting the election, determining the qualification of voters, certifying the returns and other unimportant details. At the time of holding the election, the commissioners conducting the same were required by the bill to open a separate poll to take the sense of the voters as to whether any action of the convention dissolving the connection of Virginia with the Federal Union, or changing the organic law of the State, should be submitted to the people for ratification or rejection. This poll was to be headed "for referring to the people," and "against referring to the people." The election was to be held on the 4th day of February, 1861, and the members chosen were to meet on the 13th day of the same month, at the capitol in Richmond.

The action of the legislature in refusing to submit the question of holding a convention at all, to the people, is worthy of remark. It was without precedent; no convention had previously assembled in Virginia until the question had first received the sanction of the people. This was done prior to the conventions of 1829 and 1851. Nothing, perhaps, gives a better insight into that vast combination of well laid plans which had been maturing for thirty years at the hands of factionists, who ever shun to trust the success of their evil designs to the world. In this instance the people of Virginia were distrusted, and it can scarcely be questioned



that the result, if it had been pronounced by them, would have been in decided opposition to a convention. It was a part of the tactics, employed on all similar occasions, by which men are dragged into revolutions brought about by the corruption of the few and not the spontaneous uprising of the nation. It is due to a manly minority to record that it opposed the measure as a usurpation of the ancient rights and liberties of the good people of the commonwealth, with all the eloquence and zeal of men who felt that the very foundations of republican government were being shaken.

The time allowed for the canvass in electing members to the convention, and the season of the year at which it was to occur, showed that the calmness which ought to possess the minds of men in civilized life, when they prepare to change the organic structure of society, was not, to the majority of the legislature, an essential element, nor within the scope of its purposes. But three weeks were allowed the people to consult upon the character of the candidates presenting themselves for their suffrages, and to reflect upon the probable consequences of their action. The season too, was the most inclement of the year, and when the highways were in such condition that men preferred the quiet and ease of the fireside, to the animated, boisterous, active contests of the political arena. If, however, it was in the anticipation of the conspirators, that these circumstances would operate to the advancement of their schemes, by causing the election to go by default in those parts of the State where they expected opposition, and which were the most remote from the capital, they were gravely mistaken. At this time the people of Virginia were no uninterested spectators of the great scenes which were transpiring round them. They had been unusually heated by the late campaign for the presidency, and the occurrences in the Gulf States had continued an activity in the public mind upon the questions of the day, that made them watchful when it became apparent that their own State was preparing to participate in the passing events. Besides it was felt that, from her geographical position and her influence previous to that time, whatever was the fate of the country, Virginia

was to be conspicuous in its history. Therefore, the campaign for members to the convention, whilst it was brief, was intensified by a warmth unknown, almost, to Virginia politics. But this was not so particularly in relation to candidates as to the great question of referring the action of the body back to the people. Upon this the people were powerfully moved. It was claimed that by this check, the State might be prevented from pursuing the plan of secession followed by the Gulf States, even should their deputies to the convention betray their trust; that the people would still control and thwart the design of the demagogues. So long had the country been enjoying an almost profound peace, so little did the generation of men then acting know or understand the secret arts of cabals and the violence of faction, that in their simplicity and the honesty of their own purposes, they imagined themselves a match for the wily politicians whose lives had been spent in concocting the schemes now so rapidly maturing, and whose ranks were disciplined for the encounter. It is true that the people are an overmatch for the demagogues, but it is not in the strife of subtlety; it is in those contests which are founded in the passions that move man's nature most, and nerve his arm to deeds of virtue; and then they dash to pieces their designs as the ocean when lashed to fury tosses to the winds the proudest engines of man's device.

Their votes, however, evinced their interest. A majority of nearly sixty thousand appeared in favor of referring the action of the convention to the people. In the northwestern part of the State, the unanimity was singular. The great Shenandoah Valley, which is bounded on the east by the Blue Ridge and on the west by the Alleghanies, and stretches from the bosom of the commonwealth of Pennsylvania down beyond the Potomac to where the peaks of Otter tower like giant sentinels to the sky, also recorded the voice of its sturdy farmers for referring to the people. Farther east and south the counties were more divided. Out of one hundred and fifty thousand voters only about forty-five thousand were at this time secessionists; the remainder, one hundred and ten thousand, were as yet devoted to the Federal Union.



The convention met at the appointed time and proceeded to organize. It was a remarkable body of men. Never, perhaps, in the history of the State, had a body assembled in which there was such an array of talent. It contained an ex-President of the United States, an ex-Governor of the State; many who had held positions of cabinet ministry in the Federal government, and had been representatives to both branches of the Federal Congress. The most renowned lawyers of the State sat side by side with her philosophers and literary characters. When the people saw of what material it was composed, there was a feeling of security experienced by all. The eminent and honorable stations which a majority of its members had filled, was a guarantee to many of wisdom and moderation. The political complexion of the house was the subject of study to the curious observer. The State had, since the days of Jefferson, with but few exceptions cast her vote with the democratic party. Her Governors had been of that party; her senators and representatives were likewise in a large majority with it. In the preceding presidential election, in consequence of the defection of the Douglas wing, the electoral vote had been carried for Mr. Bell, the candidate of the Whig party, by a plurality of about three hundred, over the electors of Mr. Breckinridge. Yet when the members of the convention were met, it was ascertained that out of the whole number, one hundred and fifty-two, eighty-five were the adherents of Mr. Bell thirty-five had followed the fortunes of Mr. Douglas, and the remainder were for Mr. Breckinridge. But events soon transpired which showed that no mere party influence was moving the convention toward the precipice over which it finally hurled the State to the ruins below. John Janney, Esq., a delegate from Loudon county, was, on the first ballot, elected president of the body. He had been all his life a whig, but had never been prominent in politics. He was a man of pure heart, undoubted probity, and was possessed of great practical wisdom and native wit. In his remarks upon taking the chair, he alluded to the important position Virginia had occupied in framing the constitution and Union of the United States; he said that, under that instrument, many blessings had been enjoyed, and feelingly alluded to



the old flag then floating above them, which he trusted would remain upon the capitol of Virginia forever. All that Virginia asked, he said, was the equality of the States under the constitution, and she would scorn to ask more than she was willing to concede. He concluded by expressing a hope that whatever was done would redound to the honor and glory of the commonwealth and the Union. This man was sincere in his purposes, and upon the dissolution of the convention, he retired to his home and refused to become a participant in the efforts to destroy the government of his fathers.

Soon after the organization of the body a motion was made for a committee on Federal relations, which carried, and on the 16th day of February, the president announced its formation. It consisted of Messrs. Robert Y. Conrad, A. H. H. Stuart, Henry A. Wise, Robert E. Scott, W. Ballard Preston, Lewis L. Harvie, Sherrard Clemens, W. H. McFarland, William McComas, Rob't L. Montague, Sam'l Price, Valentine W. Southall, Waitman T. Wiley, Jas. C. Bruce, William W. Boyd, James Barbour, Sam'l C. Williams, William C. Rives, Jamuel McD. Moore, George Blow, Jr., and Peter C. Johnston. Two of those appointed, Messrs. Stuart and Clemens asked to be, and were, excused from serving.

The business of the convention was now fairly begun, and resolutions were poured upon the convention with great rapidity. They were expressive of diverse sentiments and conflicting opinions. But by far the greatest number came from those who had been elected as secessionists. Their cause was necessarily progressive; it admitted of no hesitation. Resolutions were offered and referred to the committee on Federal relations, that in view of a force bill, as it was termed, being passed by Congress, to coerce any of the seceded States, that it would be regarded in conflict with the fundamental principles of republican institutions, and that due regard for the rights of the Southern sisters of Virginia, would impel her to resist such an attempt with all the means in her power. That the Governor be requested to furnish the number of enrolled militia and the number and character of arms distributed to volunteer companies; that the commissioners of the Peace Congress, then in session at Washington, from Virginia, be requested to report

whether any result acceptable to the commonwealth, was to be expected from their deliberations. That a select committee of five be appointed to report speedily whether any movements of arms or men had been made by the Federal government to any fort or arsenal in or bordering on Virginia indicating a preparation for attack or coercion. These showed the spirit that animated the secessionists, and gave the opposite party to understand what might be expected from them, and what it would ultimately be called upon to resist. As yet they were not sufficiently strong in numbers to forward materially their desperate projects.

By a well timed arrangement on the part of the conspirators, the 18th day of February was set apart for the reception of certain commissioners appointed by the States of South Carolina, Georgia and Mississippi to the convention, to ask the co-operation of Virginia in establishing and maintaining a government in the seceded States.

The first speaker introduced was the Hon. Fulton Anderson, the commissioner from Mississippi. He began his remarks by a graceful adulation of Virginia, in attributing to her the honor of leadership in the struggle for independence with the crown of Great Britain. He passed into a rehearsal of the action of his State in her secession from the Union, and assigned as a cause the election of a President by one section of the Union, who, he claimed, was an enemy to the institution of slavery. He charged that the northern people had forced the conflict upon the South, by inculcating in the school room, from the forum and the pulpit, the idea of an inferior morality among the Southern people on account of slavery, which they, relying upon the teachings of sacred and profane history, believed to be the surest foundation of their social and political fabric. He concluded by alleging that, destiny pointed to a Southern Union composed of States inhabited by a homogeneous population, with common sympathies, common interests and common hopes; that Virginia held that destiny in her hands, and that by uniting with her Southern sisters, a revolution would be accomplished, bloodless and peaceful in its character, and no more threats of coercion would be heard.

Hon. Henry L. Benning, from Georgia, was next intro-



duced. His remarks indicated, perhaps, more mind and practical statesmanship than either of the others and appealed to the avarice of the Virginians. He said that the cause which had induced his State to secede from the Union, was a settled conviction that a separation from the North was the only thing that could prevent the abolition of slavery. In proof that the conviction was well founded he alleged that the North hated slavery, that the President elect had declared so in a speech made by him in 1858; that the republican party, then in unlimited control at the North, was the North, by virtue of having the majority of the popular voice with it; that, if even it were possible to overcome it in a few years, the ascendancy would be but temporary: that it hated slavery there could be no doubt, and that it would in the future, as in the past, exert all its power against it. He argued that the North was in the course of acquiring the power that would eventually sweep slavery from every State; that new States, formed out of the territories, would be free; that such was the intensity of the anti-slavery sentiment in the border free States, that there was an actual decrease of slave population in the border slave States; the movement would be aggressive until slavery would only exist in the cotton States, and then there would be sufficient power to abolish it there. He next discussed the remedies, and held that there were but two; one to eradicate the hate of the North, the other to prevent the North from acquiring power. The latter could only be accomplished by establishing a geographical line, and confining both parties to its limits; but this was impossible, for the North held slavery to be a sin and a crime, and any stipulation in relation thereto was not binding. The hate could not be eradicated.

The only remedy was in a separation, and this would be effectual. The will of the North would then be changed for they would no longer regard themselves responsible for slavery, by its being in the Union. Once out of the Union slavery would no longer be in politics, it would be out of the power of its enemies, and in the hands of its friends. But there were reasons why Virginia should join in the formation of the Southern Confederacy. What should influence a nation to enter into a treaty with another nation?

It was interest—material, social, political, religious interest. The annual products of the Southern States in cotton, sugar, rice, naval stores, and other articles, were over two hundred million dollars in value, which they exchanged for manufactured goods, iron, flour, and other commodities of the northern States. Why could not Virginia furnish these things? She had a more genial clime, shorter winter, and was much nearer the raw material than New England or New York. By a judicious system of import duties, Virginia would have the direct trade of England which was now controlled by the North; her seaboard cities would become the mightiest of the continent. The coasting trade of the South, would be exclusively the profit of Virginia.

A long array of statistics and figures were brought forward by the speaker to prove his positions on these questions. The North, he held, would soon break into fragments when the Southern Union was completed. Politics in the North had become a trade, and corruption was the order of the day. Property would not submit to the systematic plunder already instituted, but revolutions would ensue, in which new social and political combinations would arrest its progress. Honors would cluster about her great men, were Virginia to join her fortunes with the South; riches and peace and brotherhood the South had to give her, but the North could offer only poverty and war, hatred, ignominy and speedy dissolution.

The commissioner from South Carolina, then addressed the body in a speech resplendant with rhetorical flourish and literary excellence, but sophistical to an extent bordering on insolence. He entered into an elaborate disquisition on the rights of the States independent of the Federal constitution, and after a review of the history of the formation of that instrument and the causes that led thereto, claimed that there was not one word or phrase in it capable of being construed into a lapse or proscription of the sovereign and independence of the contracting powers. This was the construction given it by those who were contemporary and juxta-contemporary. It followed, then, that having been adopted by the States in their sovereignty capacity, there was no tribunal above their authority, to decide in the last



resort whether the compact made by them be violated; and that they alone were the sole judges. The people of South Carolina assumed that, their sovereignty had never been divided or alienated, and that it was imprescriptible; that whenever the contract had been vitiated so far as to endanger their happiness, liberty and safety, they had a right to abrogate it. That period, in their judgment, had arrived. The General Government had early shown a tendency to restrict the territorial expansion of the slaveholding States. In consequence of the manufacturing disposition and habits of the people of the North, they had invented a system of duties, partial and discriminating, which caused the whole burden of the revenue to fall upon those who produced articles of export which purchased articles of import, consumed mainly by those who produced the exports. South Carolina had, on a previous occasion, interposed her sovereign capacity to arrest the evil. By this means the North had drawn subsidies that might have glutted the avarice of a Roman pro-consul, and had builded vast cities which rivaled in wealth the richest marts of the old world, and covered its granite soil with palaces and smiling gardens; and, yet, whilst it was thus gathering wealth and power from this source, they were seeking to destroy it in its attacks upon the institution of slavery. The northern people felt themselves impelled by sacred duties to God, to extirpate it. After years of earnest labor and devotion to the purpose, they had succeeded in placing the executive power of the Federal government in the hands of those who were pledged, by their obligations to the social institutions of man and to self-preservation, to place the institution of slavery in the course of final extinction. The people of South Carolina had given their answer to this decree, by the ordinance of secession. Unaided and alone she had commenced the task of repelling the malignant fanaticism that had pressed upon the South from the days of the younger Adams. She now asked the counsel and aid of Virginia in protecting her rights and honor; yet were she called upon to fight the battle alone she would not falter, but if the fire-storm should consume her, the pilgrim of liberty from Virginia would, in after times, find beneath the ruins of



Charleston the skeleton of her sentinel standing at the seagate.

The speaker declared that southern civilization could not exist without African slavery, and that the social organisms of the two sections was so antagonistic, that firm political relations could never be maintained. The free States were governed by the principle of a pure democracy, which had its controlling idea in numerical preponderance. The rule of numbers was modified in the Southern States by the recognition of a specific property essential to the vitalization of the social and political organism.

The address concluded by an impassioned appeal to Virginia to assume that position which her past greatness indicated, and with her voice hush the storm of war and keep the ancient glory of her name.

The convention by vote requested copies of the address, and ordered the publication of three thousand and forty for distribution among the members.

Nothing can indicate more fully the motives and purposes of the southern people than the sentiments of these addresses. The commissioners were representative men; each of the class which had based its action, or assumed so to do, on the fear of an unsuccessful rivalry with free institutions, the aggressive spirit of free labor, and in opposition to the bright anticipation of a great future for an association of proud commonwealths whose several existences necessitated the combination for self-preservation.

The effect produced by this visit of the commissioners, was indeed powerful. The luring hopes held out to the State, of becoming to the Southern Confederacy what New England was to the Union, were sweet to the sluggish sons of the old State. Her soil was unsurpassed by the prairies of the great west, her rivers were large enough to float the commerce of a continent, her mountains were the depositories of aggregated millions of mineral wealth. These were to be developed by an energy, sublime in the stupendous operations of its fertile agency. Avarice may be justly styled the lever that moves the world, and self-interest the mainspring of human action, and it is only necessary for the revolutionist to convince a people or community, or lead

them to think they are convinced, that their pecuniary interests are involved in an issue, to cause them to risk every present happiness in a struggle for prospective greater accumulation.

This appeal, then, to the Virginian, who was always anti-cosmopolitan, and thought his State the pride of the universe, and yet had seen it in the short space of half a century sink from a first rate to a fourth rate power in the Union, was peculiarly attractive. He had long been accustomed to hear his State reproached as a waning power and an inactive senility. Commonwealths had risen from the wilderness on the northern and western boundaries of his State, and usurped her power in the national councils by sheer force of a livelier vitality. Now, indeed, the golden hour had arrived; the great wealth of the cotton States was to be poured in her coffers, and ere long the cities of the State would rival in magnificence the cities of the Italian Republics during the middle ages, to which the treasures of the Orient were tributary. Towns, villages and hamlets, in which wealth and affluence greeted the eye at every turn, would be constantly in the traveler's view. Great factories whose stately furnaces would pierce the heavens and whose ponderous engines revolved with a conscious nobility, would spring their lofty fronts to catch the smiles of the morning sun.

There was another, and a powerful party too, which was pleased by the graceful allusions to the influential position accorded the State. All of the speakers in their remarks, endeavored to impress the idea that by the union of Virginia with the Confederacy, the dissolution would be peaceful. To the party, therefore, which desired secession and believed the interests of the State would be enhanced thereby, this was a grateful announcement, and it clung tenaciously to the hope. Another party there was also, which deprecated secession and believed it to be an unmitigated evil, and which would not consent to a permanent abrogation of the Union, yet thought the Federal constitution required some amendments, and with a view to reconstruction, the present temporary secession of Virginia in a peaceable manner, might bring about the formation of a still closer union of all the



States; forgetting what human experience has invariably demonstrated, that revolutions never go backward, and that one false step in the political, as in the moral world, is more disastrous than a hundred passive wrongs unredressed, and is retrievable only by the sacrifice of principle or the more sanguinary sacrifice of the battle-field.

But to the party of determined restless spirits, which had, from inclination and by following the perverted teachings of ambitious statesmen, learned the lesson of national disintegration and false honor, the occasion was most auspicious. This party was high in hopes from the misrule and unwise course of the hour. In it was to be found men who regarded themselves as the guardians and the sacred repositories of what had come down to modern times from the foolish mists and prurient courage of the age, when men sought no higher objects of ambition, than to tilt a lance against the steel corselet of an opponent, or to compose sickly sonnets to the pearly whiteness of some fair dame's rounded shoulders or the graceful arching of her eye-brows. Chivalry was the great sun of their existence, and so far their adoration extended, that, not to resent a fancied insult by the annihilating of the offender, was equivalent to being forever banished from the presence of all that high array of virtues which is presented for an example to men. When men entertain such over wrought distinctions of the duties of life, they are necessarily led to shun those employments and pursuits which bring them into contact with opposite minds in the affairs of the race; and hence they discard all forms of manual labor and steady, continuous, intellectual effort. From this state of feeling to that of disgust and contempt for those who are thus engaged, the transition is easy. Therefore, the chivalry of Virginia hailed with almost inexpressible delight, the opportunity to sever themselves socially and politically from the association of their northern brethren, who were renowned for their high development of those qualities which go, in the detail and aggregate, to constitute the very greatness of a nation by their individual weakness. Such were the various classes and grades of opinion by which the body politic was excited.

The project to make Virginia the manufacturing power of

the Southern Union was a fallacy which the veriest tyro in political economy ought to have seen. The very States that were inviting her to that exalted and profitable office, were those that had for years so retarded the industry of manufacturing States at the North by a system of free trade, that at one time it threatened to almost wholly impoverish them. And had that choice band of chivalrous spirits, been so far prescient as to have seen the long line of shadowy illusions, that were produced by four years of terrible combat, rise from the trenches of a hundred bloody engagements, they could, perhaps, have realized that, in this age at least, the sentiments that nerved a free man's arm to strike for the rights of the whole human race, were the embodiment of a far more potent and enduring energy, than the spurious imitation of the ephemeral charms of an hour of triumph at a tournament or a banquet, in the presence of kingly power or a queenly court. And the peaceable secessionist in his happiest dreams, could he have drawn aside the veil of the future, and seen the hand of destiny in the fierce flames which writhed over the roof of his ancestors, or hid their furies amid the crashing walls of sacked and burning cities, or the howling wilderness which sprang up in the track of passing armies where all had been an Eden, might have been awakened to that sense of startling reality which a few short years demonstrated to his horrified vision.

Whilst the convention was still pouring resolutions relating to the great subject of union, upon the committee of Federal relations, and before it had made any report, an event took place at the Federal capital which was designed either to bring matters more rapidly to a crisis or restore order and harmony to the country. On the 4th of March, Mr. Lincoln was duly inaugurated President of the United States for four years. The event was attended with the usual preliminary ceremonies in public on the east portico of the capitol. For the last few weeks of the retiring government, everything connected with it seemed to be sadly out of joint. The cabinet, ministers who were from the southern seceded States, had resigned when secession occurred in their respective States. The Federal officers located in the South, had likewise resigned, or those who did not do so,



accepted similar positions under the Confederate government without the formality of a resignation. Many of the forts and arsenals belonging to the General Government had been seized by superior force or surrendered without a blow. And yet such was the disposition and temper of the executive government, that nothing had been done to maintain its honor either in the cabinet or in the field; and it was only after much solicitation by some pious spirits at the North, that a day of fasting and prayer was proclaimed. It appeared as though one of those inexplicable periods in the history of some men had arrived, which justified the conclusion of complicity, or the equally to be regretted acknowledgment of puerility. People who still loved the nation's emblem of its integrity, were put to the blush when they heard of its being rudely torn down by a recreant foe, without the resistance which the weakest Duchy would have offered to the most sovereign pontiff. All confidence seemed for the moment lost. Securities fell to a nominal value and depression in external matters sympathized with the internal expressions of hopelessness. Still there was a silence in the North that was portentous. Whilst the senators and representatives in Congress from the Southern States were rising in their seats upon the secession of each State, and openly resigning and casting an insulting parting word to their northern compeers; reproaching them with criminal intents and diabolical designs, there sat the representatives of the mighty North, without deigning more than an occasional mild reproof for the indecorum, silent immovable, imperturbable. No threats were heard from their side of the house, no vain boasting of their purposes; and yet they were the descendants of men whose words of war had leaped like liquid fire along the valleys and over the granite hills, in a revolution scarce three quarters of a century passed away. As yet there was dormant in the North itself, a sublime power unbounded in its terrific action.

The inauguration, however, of a man who was the representative of a party in the pride of its first triumph and flushed with victory, gave hope to the despairing citizens, and warmed into life those patriotic virtues which the hesitating policy of the outgoing administration, had permitted



to grow cold on the altar of the nation. The inaugural address, whilst of a tone and character that did not threaten or wound, still announced the doctrine, that nothing had yet taken place, according to the constitution, which was sufficient to tie the hands of the Executive or deter him from retaking the forts and arsenals and repossessing the property belonging to the government in the States where secession had been instituted.

This address was received and interpreted by the people of Virginia and the convention, according to the prevailing opinions of parties on the questions then being agitated. The extremists argued and asserted that it was equivalent to a declaration of hostilities, and by the superior vehemence which characterizes revolutionists, together with a resort to the sophistry of public commotions, they drew to them many who were filled with alarm at the aspect of affairs and found a temporary relief in the shadow of violent spirits.

The pressure of events brought from the committee on Federal relations, a partial majority report on the 9th of March. It claimed that Virginia being more interested in the continuance of peace than other Southern States, and having instituted measures to obtain guarantees of a proper self-respect, impelled her to demand of all parties a suspension of all action tending to produce collision of forces, whilst she was making efforts for an amicable adjustment. The sovereignty was declared to rest in the States; slavery was held to be a vital element of southern socialism, and any interference either by States or the Federal government was offensive and dangerous; the formation of sectional or geographical parties was contrary to the principles on which the government rested and tended to its overthrow. The fourth resolution declared that the territories of the Union were equally the property of all the States, and that if the institutions of States conflicted therein, a fair partition should be made and each assigned to its respective limits. The fifth resolution was vital in its significance. It alleged that the sites of forts and arsenals belonging to the Federal government within the limits of the States of the Union, had been acquired by it, and jurisdiction ceded by the States, as trusts for the common purposes during the continuance of

the Union. Whilst a State remained in the Union, the legitimate use of such forts and arsenals was to protect the country from foreign foes and to suppress domestic insurrection; but to use them to intimidate a State or constrain its free action was a perversion, and that they were not intended to be used against the States in whose limits they were found, in the event of civil war. Whilst irritating questions were pending between the States, to accumulate an unusual amount of troops and munitions of war, within any of the States, was unwise, impolitic and offensive.

The sixth and seventh called for delay and suggested some remedies that would forward the peaceable adjustment of pending complications.

The eighth conceded the right of the people of the States for just causes to withdraw from their association under the federative head and to erect new governments; and that the people of Virginia would never consent that the Federal power should be exercised for the purpose of subjecting the people of such States to the Federal authority.

The ninth recognized the exercise of the right by the gulf States and its disclaimer by the Federal authorities; and the tenth asserted that the people of Virginia desired to confer upon the national government the powers necessary to enable it to deal with all questions arising from the action of these States, in a peaceable manner, and to recognize their independence and make such treaties with them as might be proper.

The eleventh proposed that certain amendments should be submitted to the people of all the States for their ratification, and if a satisfactory response was not elicited, then Virginia would resume her powers granted under the constitution of the United States and throw herself upon her reserved rights; that a reasonable time would be allowed for this course, but during the interim nothing but pacific measures should be adopted, and no attempt should be made to reinforce the forts or to recapture any within the limits of a seceded State; nor should there be any payment of impost upon commerce to the Federal authorities, nor any measures be resorted to, justly calculated to provoke hostile collision.



The thirteenth declared that any action of the Federal government tending to produce collision of forces, pending negotiations, would be aggressive and injurious to the interests and offensive to the honor of the commonwealth; and that any such action by the Confederate States would be regarded as hurtful and unfriendly, and as leaving Virginia free to determine her future policy.

The fourteenth and last suggested a conference of the border slave States, and requested the proper authorities to appoint commissioners to meet at Frankfort, Kentucky, on the last Monday in May ensuing.

The report of the committee was a signal for a general onset between the parties. One of the most animated and spirited debates which modern times has witnessed, immediately began. It was characterized by a warmth and ability which the great interests of the occasion demanded and the high order of intellect engaged brought forth. The vehemence and rancor of the secession cabal, was met by the sturdy determination and lofty eloquence of the unionists, in defence of all that was honorable and revered in the history of their country. Every influence that could be exerted by the factionists, was brought to bear in the argument. State pride, that fatal deity of the Virginian, was urged with all the eloquence of the most accomplished orators. On the part of the unionists, the traditions and the glory of the past, and the magnitude of a mighty future, were portrayed with a zeal and faithfulness which the proudest intellects of any age never excelled. The most gifted minds of the times poured the rich treasures of their maturity into the agitated flood of patriotic duty. After elaborate discussion a vote was had on the 4th of April. Both parties desired it, for the purpose of ascertaining the progress of accretion and defection. The resolutions were voted on separately, and were amended or stricken out, on a basis generally favorable to the union cause. But the great test vote was on the sixth, for which a substitute was offered providing that an ordinance of secession from the Federal Union should be submitted to the people of Virginia at the annual election in May following. This proposition met with a most signal rebuke, by a vote of forty-five

for and eighty-nine against it. The spirits of the Union members rose triumphant with the result, which evinced such a decided majority against direct secession, however much diversity of sentiment might exist on questions of adjustment, involving neutrality or non-coercion. Prior to this time, a few days, a scheme had been concocted by the secessionists, designed to accomplish in the most revolutionary manner, what they feared could not be done through the convention in its present temper. A circular was issued signed by six members of the convention, two members of the House of Delegates and the clerk, and extensively distributed throughout the State. It called upon the parties to whom it was addressed, to present themselves in Richmond on the 16th day of April, to consult with the friends of southern rights as to the course Virginia should pursue in the present emergency ; and to send from each county a full delegation of true reliable men. The object of this, viewed in the light of subsequent events, as to the time of meeting and other circumstances, can not be misunderstood. It was one link in the chain of combinations which had brought about such a disordered state of public affairs, and was designed to effect secession with or without even the semblance of the forms of law, which many would have attached to such action by the regular convention.

After the vote on the report of the committee, a new system of tactics was inaugurated. No longer was it a discussion in which giant minds wrestled for the supremacy. The voice of reason and the impassioned appeals to the conscience, were soon interrupted by the low mutterings of those discordant passions ever heard when physical force, having been overcome by the sublime powers of moral causes, raises its ghastly tones to animate the fury of its might. Terms of obloquy and reproach were applied to those who still resisted the secession mania ; they were scornfully denominated "submissionists." The galleries and lobbies of the hall were filled with a wild, excited throng, hounded on by negro traders of Virginia and bands of negro hunters from South Carolina. They frowned and hissed when patriots below were pouring out upon the altar of their country the most magnificent tributes from their noble



hearts and enlightened consciences. When they left the hall it was to be insultingly met at the door and on the streets, by epithets of ignominy and reproach. Another part of the infernal devices, was the employment of bands of music, which traversed the streets collecting a motley crowd of lewd fellows and desperate characters, who tore down from the marked places and public squares the flag of the republic, and hoisted in its stead the palmetto and Confederate emblems. These same characters roamed the streets at night from place to place, and called out the public men from the South, sojourning in the city, and applauded the most extreme sentiments with the wildest echoes. It was a part of their duty also, to intimidate the Union members of the convention, especially those from the northwestern part of the State; and these on arising from their beds in the morning would discover in close proximity to their windows, ropes with suggestive nooses at their ends, pending from an adjoining tree or lamp post. But still they remained firm, proudly conscious of the integrity of their position, rejoicing in the knowledge that they were in the best of earthly causes—supporting a good government; they stood like the eternal hills, secure in their foundations. The policy adopted by the conspirators produced its effects on the people. That portion of society which takes but little interest in public affairs in ordinary times, is the element from which factionists draw the largest agency in furthering their purposes. They are ready to distinguish between ordinary and extraordinary periods in the passing events; and when they discover violent measures controlling the hour, either from timidity or ignorance, they hasten to join themselves with those who are usurping the reins of power, or who occupy the largest share of public attention. This class also became attached to the party of the conspirators and thus swelled to the proportions of respectability, they deemed the hour for action had arrived. A prominent actor in the scenes in Virginia, was dispatched to Charleston, South Carolina, to announce that everything was in readiness in Virginia for the inauguration of the final act of the drama. He told the Carolinians that they must strike the blow, and “in an hour, by Shrewsbury clock, his State would be with them.” To this

was a welcome announcement to the Southern leaders. For months the public mind had been phrenzied by anticipations. Society had experienced some of those upheavals which precede revolutions, and go far towards resolving it to its original elements. War had been the theme of conversation in all circles, and all who had dared lift a voice against the universal rage, had been silenced without mercy. Armies had been equipped and disciplined, and in the gush of their enthusiasm the young soldiers were crying to be led to the field. Public expectation was at the highest point and was clamoring for gratification. The chiefs however, were awaiting the auspicious moment, when the greatest moral force could be set in motion to aid their schemes. This promise then, from the "mother of States," which to the people, would give sanction to the enterprise and success if it were within the range of possibility, was the signal for the boasts and efforts of thirty years to culminate in the first direct assault of active warfare and the opening of hostilities. The fruits of this advice was the firing on the walls of Fort Sumpter, in Charleston harbor, the echoes from which were returned by the mountains of a continent, and only ceased when the national honor was baptized in the blood of a million of citizens.

During the progress of the bombardment of Fort Sumpter, the excitement in Richmond and in the convention was intense. Bonfires and illuminations blazed high in the streets and public squares; the national flag was torn from its place over the dome of the capitol and trampled under the feet of an infuriated mob. Stores and public places were closed and the populace sought the streets to give vent to their feelings. Strangers rushed to the city from all parts of the State and helped to swell the throngs. Many who had come in advance of the call before mentioned, to meet on the 16th of April, assembled together in a large hall and sat with closed doors. No ingress could be obtained to the sessions of this mysterious body. To add to the alarm of the times the convention went in secret session, and all further knowledge as to its operations, to the Union people at least, was at an end. But the scenes witnessed within the walls of that room, as detailed by members, have no parallel in the

annals of ancient or modern times. The Union men began to appreciate their position only, when they saw those who had been their active co-laborers bowing before the storm, and yielding to the pressure of events. In vain did they appeal, exhort, entreat them to remain firm in the adhesion to the national bond. On the morning of the 17th, Mr. Wise, the member from Princess Anne, rose in his seat and drawing a large Virginia horse pistol from his bosom, laid it before him, proceeded to harangue the body in the most violent and denunciatory manner; he concluded by taking his watch from his pocket and with glaring eyes and hated breath declared that events were now transpiring which caused a hush to come over his soul; at such an hour, he said, Harper's Ferry and its armory were in the possession of Virginia soldiers, at another period the Federal navy yard and property at Norfolk were seized by troops of the State. It was then that the Union members saw the object of the other assemblage which had sat with closed doors from its beginning, and whose concealed hand seizing the reins of government, had left them the form without the power to resist.

It was true, as he had spoken; the volunteer companies which had been organized after the raid by John Brown, in the Shenandoah Valley had, under orders from some mysterious power, assembled to the number of two thousand or more, and moved on Harper's Ferry with the design of seizing the armory and arsenals at that point belonging to the Federal government; the small garrison of marines, after destroying the most valuable property, fired the buildings and fled in precipitate haste.

On the 17th of April, after much confusion and excited discussion, the convention came to a vote on an ordinance of secession from the Federal Union. The vote stood eighty-one for and fifty-one against it. It was entitled "an ordinance to repeal the ratification of the constitution of the United States of America, by the State of Virginia, and to resume all the rights and powers granted under said constitution." It set forth that, the people of Virginia in their ratification of the constitution, on the 25th of June, 1788, had declared that the powers granted under it were derived from the people of the United States, and might be resumed



whenever it should be perverted to their injury and oppression, and the Federal government had perverted said powers, not only to the injury of the people of Virginia, but to the oppression of the Southern slaveholding States; therefore the people of Virginia, declared and ordained that the ordinance of ratification and all acts of the General Assembly, ratifying or adopting amendments to the constitution, were repealed and abrogated; and that the union between Virginia and the other States under it was thereby dissolved; that the State was in full possession, and exercised all the rights of sovereignty which belong and appertain to a free and independent State, and that the constitution was no longer binding on any citizen thereof; that the ordinance was to take effect when ratified by a majority of the votes cast at a poll to be taken on the fourth Thursday in May following, in pursuance of the schedule thereafter to be enacted. The schedule was passed on the 24th of the same month, and provided the manner of holding the polls,—“For Ratification,” and “For Rejection,”—giving citizens absent from their counties in the military service of the State the right to vote in their camps, providing for returns and a proclamation of the result by the Governor, and suspending and prohibiting the election for members of Congress of the United States at the coming annual election in May. On the 25th, the convention passed an ordinance ratifying a convention, which had been entered into by the military committee previously appointed by it, and certain commissioners of the Confederate government, for a temporary union with that government, pending the adoption by it of a permanent constitution. The agreements of the convention were that until Virginia should become a member of the Confederate government, the whole military force and military operations, offensive and defensive, of the commonwealth, in the impending conflict with the United States, should be under the chief control and direction of the president of the Confederate States; and that upon the adoption of a permanent constitution by the Confederate States, and Virginia becoming a member of the same, she would “turn over” thereto “all public property, naval stores and munitions of war she had then in possession, acquired from the United States.”



This ordinance was a clear assumption of power, and was a transfer of the people, without their assent or request, to a foreign and hostile government. On the 26th, an ordinance was adopted ratifying "the constitution of the provisional government of the Confederate States of America;" it was, however, not to be effective, unless the secession ordinance was ratified by the people. The convention passed, on the same day, an ordinance amending the State constitution, by striking from it the provisions which exempted slave property under twelve years of age from taxation and caused a valuation of three hundred dollars only to be placed on all over that age; this latter ordinance will be hereafter more extensively noticed. Afterwards, on the 1st of May, an ordinance was adopted, releasing all officers of the State from the obligations of their oath to support the constitution of the United States. The convention soon thereafter adjourned to meet again on the return of the vote by the people on the secession ordinance.

Immediately after the passage of the fatal ordinance, the convention began to diminish in numbers. The delegates from the northwestern part of the State, from the counties which now compose the State of West Virginia, finding themselves in a hopeless minority, quietly, and in some instances secretly, took their departure for their native mountains, where their humble yet more faithful constituents, received them with open arms and anxious minds.

A slight review of the geographical position of that part of the State which has since been erected into a separate organization, together with a sketch of the character, habits and history of the people, may be necessary to enable a just estimate to be formed of the causes that impelled them to take the bold and defiant attitude which resulted in that organization. By a glance at the map of what was then known as Northwestern Virginia, it will be seen that the country is wholly separated by lofty ranges of the Alleghanies which run entirely through its center, from the remainder of the State. This range of mountains, is not a single upheaval rising from out the bosom of a vast plain according to the popular conception of mountains, but is a succession of parallel ridges, varying from twelve to twenty-

five hundred feet in height, separated from each other at their base, by small valleys from the fourth of a mile to two miles in width. From the most westerly range to the eastern slope bordering on the Shenandoah Valley, is about fifty miles. The western slope to the Ohio river presents a country of singularly wild and beautiful appearance. It is drained to the north by the Monongahela and Cheat rivers, which rise far in the mountain fastnesses of the interior, and pursuing their course of crooked and tortuous channels over rocky beds and between shelving precipices, join their waters a few miles north of the Pennsylvania line. To the west the country is drained by the Little Kanawha river, emptying into the Ohio river at Parkersburg. The southwestern part of the State is watered by the Great Kanawha and its tributaries. The head waters of this latter river rise in the mountains of North Carolina, and running nearly north for a hundred miles, it bears gradually to the west an equal distance and pours its waters into the Ohio river about fifty miles above the Kentucky line. Its principal tributaries are the Elk and Gauley rivers, which take their heads from the opposite watershed to the Monongahela and Cheat rivers, and running parallel with each other in a southwesterly direction empty into it, the former at Charleston, and the latter about thirty miles above. These rivers have their various creeks and tributaries which divide the country into continuous broken and irregular sections of hills and undulations. The Monongahela, Cheat, Elk, Gauley and Little Kanawha, all take their rise in a tract of country not over twenty miles square, the two former forcing their way through the mountains to the north, and joining their waters with the Allegheny at Pittsburgh, from the *La Belle Rivere* of the early French settlers; the latter after draining a section of country for 150 miles in an opposite direction, find their way to the same stream, the Little Kanawha two hundred and the other three hundred miles lower down.

The climate in the valleys, is of that peculiarly mild and agreeable character which is found in the heart of the temperate zone. Where the soil is cultivated a yield is unfolded which rivals the increase of western prairies. The hill sides spontaneously produce a growth of herbage and wild grass

unexcelled for grazing purposes, while far upon the mountain heights amid giant oaks, lofty poplars and wide spreading maples, a luxuriant vegetation covers the face of nature with mossy intermixture of wild flowers, exhaling a thousand sweets. In the more populated sections, along the Ohio and Pennsylvania borders, the country presents a delightful view to the traveler. Large farms stretch along the little valleys and spread their outstretching fields to the uplands, smiling in the morning sun or receiving the tinges of the dying day, girt by noble forest trees which have been spared as monuments, to mark the glory of primeval solitudes. Farther in the interior, nearer the heads of the streams, a more primitive aspect is to be met. The sharp ring of the woodman's axe and the keen crack of the rifle, are the music that enchant the silence. Here and there, openings have been made by adventurous pioneers, which serve to guide the traveler on his way, or should he be benighted, no more hospitable hearth in the land will bid him welcome, than that of the honest host of the West Virginia cabin.

At the time of these events, the people of this part of the State were the representatives of no particular class, nationality or religion. No settlements had been made in West Augusta as it was known then, at the period of the Revolution, which were worthy of the name. It was an unbroken wilderness which had but seldom been penetrated by the foot of civilized men. Shortly after that, however, some of the bolder spirits of the eastern part of the State began gradually to scale the Alleghanies and disturb the silence by the sounds accompanying the path of civilization. The district of Monongalia was formed out of the county of West Augusta, about the year 1770 and subsequent additions were made in 1779. After the Revolution the spirit of emigration began to set towards the wilderness west of the mountains. The first settlers were followed, in a generation afterwards, by a class of people whose style of life led them to abandon the older counties of the east, where their pecuniary affairs had become involved with the more expensive habits of those localities. Possessing still some remnants of fortunes which enabled them to live in quite an in-



dependent manner in a country where there was but little opportunity to gratify the passions and but little disposition to mere display, they became large land holders, and with the few slaves brought with them, relics of the past, they tilled the soil sufficiently to supply their needs, and spent their time in hunting and the chase.

The land titles became much involved in litigious dispute, by a conflict between patentees from the commonwealth, and the descendants of grantees from the sovereigns of Great Britain who in colonial times gave away tracts sufficient for a Dukedom, to courtiers and favorites. This subject became of frightful magnitude, and was one of the many causes which deterred emigration to this section of the State. Portions of the emigration during the early part of the present century, came from the eastern counties of Pennsylvania, some from Maryland, and a limited number from New Jersey. In later years a part of the rush of emigration which hurried to the great west, paused and looked favorably at the country, but inquiry into the internal economy of the State, usually accelerated the speed of the emigrant in his western flight.

A general spirit of inquiry, however, was awakening among the people. With envious eyes they beheld the progress of States on their borders, whilst they were compelled to advance in the paths known to man in the most primitive times, or emigrate to distant commonwealths. So much indeed, had this spirit taken hold of the people, that, believing the policy of the eastern portion of the State to be inimical to the interests of the west, and the customs and habits of the former so dissimilar to the latter, they had on more than one occasion endeavored to obtain a separate State organization west of the Alleghanies.

Many causes had conspired to produce this state of feeling. The convention of 1850-51 had provided a system of taxation that bore heavily on the west. The constitution prohibited taxation upon slaves under twelve years of age, and placed an equal valuation of three hundred dollars on all over that age. Thus the white laborer and farmer of the west, was required to pay a revenue to the State upon all the chattels he possessed, whilst the eastern planter whose

wealth consisted principally of slaves, was exempted from bearing his fair and equitable proportion of the burdens of government, by reason of his ownership in that particular species of property, which, had it been even to the inclination or taste of the western man to hold or enjoy, would have been, from the character of the country and the adverse influences of climate and surroundings, wholly to his disprofit. This disproportion, or unjust discrimination, was the fruitful theme of the western politician on the hustings; and he was the successful contestant, who succeeded in convincing the constituency of his eternal hostility to the principal, and of his ability to further the means of relief.

There was also another grievance which was the subject of great complaint by the west. It was the basis of representation fixed by the constitution, whereby the slave wealth of the east was represented in the legislative branch of the State government, and brought to bear against the exercise of the elective franchise by the whites of the west. The appointment of delegates to the lower house of the General Assembly, and the creation of the senatorial districts, were founded upon this system of "mixed basis," as it was denominated, by the covention of 1850-51. It gave an unequal proportion of representatives to the east, through their preponderance of wealth, principally in slaves. It enfranchised property and inhabitants in the east, and inhabitants only in the west.

This mixed basis was fastened irrevokably upon the people by a provision that, no amendments, should be made thereto until the year 1865, when the General Assembly was to submit to the people the question of "suffrage basis," that is, representation according to the number of voters in the commonwealth; or mixed basis, representation according to the number of white inhabitants contained, and the amount of all state taxes paid in the several counties of the commonwealth, deducting therefrom all taxes paid on licenses and law process, and capitation tax on free negroes, allowing one delegate for every seventy-sixth part of the inhabitants, and one delegate for every seventy-sixth part of the taxes. The effect of this measure was to give to the east a power in the law-making branch of the gov-



ernment, to which its wealth alone, and not its numbers, entitled it. It was repugnant to the spirit of the age and anti-democratic in its tendency. It gave to property an influence which all republics founded on the rights of personal liberty, have hitherto given to the person. The circumstances of the hour were such that the people could not reject the constitution embracing even such provisions. In many particulars it was essentially better than the one under which the people were then living. It abolished the landed qualification of voters, remodeled the judiciary system of the State, and provided for the election of Governor and many other officers by the people, and defined more distinctly the line of demarcation between the legislative, executive and judicial branches of the government. Prior to this time there was scarcely an officer from the most insignificant, either in executive or judicial stations, elected by the people; indeed, the only exception was in selecting members of the General Assembly.

The constitution was adopted, receiving large majorities therefor in the eastern portions of the State, but many western counties voted heavily against it, preferring rather, the absence of many privileges, than the surrender of so vital a principle as the unrestricted and independent exercise of personal franchise.

There was still another source of discontent upon the part of the west, which called fourth loud and protracted complaint, and was, perhaps, an evil of greater magnitude than any other which it was compelled to endure. This was the unequal distribution of the public funds in constructing works of internal improvement. From participating in the benefits of the various lines of traffic and travel inaugurated by, and under the auspices and patronage of the State, the west was practically debarred. A magnificent system of improvements in railroads and canals, was entered upon and completed in the east, by large donations from the public treasury. Charters with liberal provisions were readily granted by the General Assembly to the eastern section, whilst the west vainly endeavored, in many instances, to get the bare privilege of constructing works by aid of individual enterprise alone. Large loans were made



by the General Assembly, and heavy subscriptions were taken by the State for the east, whilst the west received but a mere pittance, though annually swelling the exchequer with many hundreds of thousands of dollars. Indeed the delegate from a western county, when he returned to his constituency and informed them of his having secured an appropriation of a few thousand dollars to aid in the construction of a mud pike, thought himself entitled to the civic wreath, and on the high way to popular favor and esteem; although in thus procuring a miserable bounty for his section, he had to combine with eastern members, and vote magnificent sums to cherished schemes of eastern aggrandizement.

These things had been a matter of great irritation to the people of the west. The public temper was in no amiable mood; the bearing of the east towards the west was always of an affected, supercilious superiority, and had been carried so far that they had in contemptuous derision denominated the citizens of the latter as, "the peasantry of the west." Smarting under these accumulated grievances, it is not difficult to account for the storm of opposition that swelled up from the people, when their faithful deputies to the Richmond convention, returned one by one in rapid succession to their several counties, bearing in their pale, disconsolate countenances the marks of the terrible struggle through which they had passed. When too, they listened to their stories of fraud and violence and heard in detail the means by which it was designed to transfer them to the horrid embrace of a government founded upon an institution which had for three generations ground them beneath its iron heel, all the remembrances of their past wrongs rose like a torrent of their mountains long pent up and over-leaping every obstruction, burst forth in one prolonged shout of defiance.

As yet it was not understood in what manner the Federal government would aid loyal citizens in States or parts of States assuming to act under secession; still the determination of this people was to resist the secession movement of Virginia, against the whole power of the Confederate States; and failing in this, they would gather up the wrecks of

their fortunes and their household gods, abandoning every other interest, and seek distant homes in the wilds of the far west, away from the hated influence of their life-long foe. Loyalty to the government of their fathers was deeply implanted in their breasts, and they turned toward the old flag with a glowing pride in its memories, instinctively divining that beneath its folds liberty dwelt in conscious strength and repose.

They early gave an indication of the state of their feelings upon the questions which began to agitate the country after the election in November, 1860. The first meeting that was held to express the sentiments of the people, took place in Preston county, on the 12th day of November, 1860. Men of all parties participated in the proceedings. The partizans of the two democratic candidates, who had waged a furious warfare but one short week previously, met in honest and earnest council to give expression to their views upon the result of the late election, and the questions that were rapidly assuming a dangerous tendency thereunder. The supporters of the Bell and Everett ticket joined in the deliberations, and the few but independent and active adherents of the successful party added their voice. After little delay and no discussion, so unanimous were men of all parties, that they passed a series of resolutions strongly opposing secession, and declaring that any attempt upon the part of the State to secede, would meet with the unqualified disapprobation of the people of the county. A meeting was held in Harrison county on the 24th of November, under like circumstances, which declared that, the people would first exhaust all constitutional remedies for redress before they would resort to any violent measures; that the ballot box was the only medium known to the constitution for a redress of grievances, and to it alone would they appeal; that it was the duty of all citizens to uphold and support the lawfully constituted authorities. An assemblage of people at the court-house of Monongalia county on the 26th of November, in which the acknowledged leaders of all parties took part, unanimously resolved that, the election of the candidates of the republican party, did not justify secession and that the Union of the States was the



best guarantee for the present and future welfare of the people.

The people of Taylor county, at their court-house, on the 3rd of December following, resolved that they were opposed to taking any steps looking to a dissolution of the Union for existing causes. A large meeting of citizens in Wheeling, on the 14th of the same month, passed resolutions of like import and significance. Indeed, throughout the western counties, such meetings were generally held, and subsequent events proved that they were not the ordinary concomitants of political or partizan machinery, but they were the expressions of a people with whom fealty, in a republican government, meant an acquiescence in the will of the majority, when that will was ascertained in the mode prescribed by the organic law, and on the maintenance of which principle the whole structure was founded.

When, therefore, it became no longer a matter of doubt, that the convention had passed an ordinance of secession, and the people were forced to choose their position; when actual hostilities had commenced, and words of deprecation and resolution declaratory of sentiments were no longer available, there came over the people that feeling which a generation experiences but once, and few centuries have ever seen repeated. It was that grand upheaval of all that is good and evil in mankind, so strangely intermingled that none can tell where one begins and the other ends, as the radiant beams of a setting sun falling athwart a passing angry cloud illumines the whole in indefinable magnificence. Men looked in each other's faces for confidence and direction, and found only those indications which were the mirror of their own breasts. But high over all and written on every countenance was the spirit of determined resistance to the action of the convention.

It was then that a series of meetings commenced, which has had no parallel in history, except the almost continual sessions of the citizen assemblies during the early part of the French Revolution; and this too, in a sparsely settled country, where facilities for convening were of the most primitive character. The earliest and first of these meetings was held at Morgantown, on the night of the 17th of April,



1861, the day the ordinance of secession passed. The temper of the people was not to be mistaken; the most violent sentiments of the orators were the most vehemently applauded. The meeting solemnly resolved that, the time had come when every friend of the Union should rally to the support of the flag of his country and maintain it under the most adverse and trying circumstances; that the people of Monongalia, without distinction of party, entered their solemn protest against the secession of Virginia; that they were attached to the Federal Union as the ark of their political safety and would cling to it despite the efforts of traitors to precipitate them into the gulf of secession; that secession as practically exemplified in the so-called Southern Confederacy, was unmitigated treason against the constitution and the government of the United States, and its leading actors were traitors and liable to be treated as such; that the idea of seceding from the general government and being attached to the Southern Confederacy, was repulsive to every feeling and instinct of patriotism, and that the meeting was unalterably opposed to such a measure; and that, Western Virginia had patiently submitted to and borne up under the oppressive policy of Eastern Virginia for the last half century, as shown in her denying equal representation and refusing to bear an equal share of taxation, (on her slave property;) that now the measure of eastern oppression was full, and that, if, as was claimed by the east, secession was the only remedy offered by it for all the wrongs of the west, the day was near at hand when the west would rise in the majesty of its strength and repudiating its oppressors, would dissolve all its civil and political connection with the east, and remain firmly under the stars and stripes.

A resolution of thanks to the members of the convention from the county, for their firmness, was passed; also that in the event of the passage of the ordinance of secession, (which it appears was not certainly known to have passed, although so reported) the delegates be requested to propose a division of the State.

The citizens of Taylor county were equally emphatic in their denunciation of secession. On the 13th of April, they resolved in a meeting at the court-house, after declaring in

a preamble, that Western Virginia had no interest in common with a government established for the sole purpose of protecting and propagating African slavery, that, they did not recognize the right of, nor any present cause for, any State, on its own motion, to secede from the Union; nor any cause to justify revolution; that the government of the United States ought to be maintained and all constitutional laws enforced; and that, if the eastern portion of the State should secede from or revolutionize the General Government, they were in favor of establishing an independent State government for the western portion of the State, in which they could regulate their own internal affairs according to their own interests.

Actuated by a similar desire and in pursuance of a like spirit, the people of Wetzel county held a meeting, on the 22nd of April, and resolved that secession was no remedy for the evils which environed the country; that they pledged themselves to oppose any act of secession which would sever them from the Federal Government; that they appealed to their fellow-citizens to uphold the national banner; and that strong as were the ties that bound them to Virginia, yet nevertheless, should the convention, by an ordinance of secession (in consequence of the convention being in secret session it was not definitely known that it had passed) force them into a connection with the Gulf States, as citizens of Western Virginia, they would deem it a duty to themselves and posterity, to adopt such means and use such measures as should result in a division of the State.

As yet no definite steps had been taken to secure such a result by a combined movement. But the remedy was soon brought forward by the decided action of a large meeting of people at Clarksburg, in Harrison county. This meeting was held on the 22nd of April, under the auspices of the Hon. John S. Carlisle, the late delegate from that county to the convention. It was attended by about twelve hundred people. After reciting in a long preamble, declaring the means that had been resorted to by the secessionists to transfer the State from its allegiance to the Federal Government to the so-called Confederate States, without the consent of the people, as wholly unjustifiable, and as having seized, with-



out the authority of those in whose name they professed to act, the property of the Federal Government within the limits of the State, and hereby inaugurated war, the meeting recommended to the people in each and all of the counties composing Northwestern Virginia to appoint not less than five delegates of their wisest, best and discretest men, to meet in convention at Wheeling on the 13th day of May following, to consult and determine upon such action as the people of Northwestern Virginia should take in the present fearful emergency.

This, in the exigency and under the pressure of events by which the people were surrounded, was a bold and startling measure. No aggressive movements had yet been attempted in this section of the Union, nor indeed was there anywhere any invasion of the territory of the Southern States by the Federal Government. About this time or shortly after a few companies of troops under the control of the secessionists took possession of Grafton, on the Baltimore and Ohio railroad, the key to Northwestern Virginia, for the purpose of preventing the military of the Federal Government from passing east to the defence of Washington, and overawing the inhabitants. In this latter, however, no success was attained. Following the recommendation of the Clarksburg meeting, delegates were appointed in all the north-western counties. In some, home guard companies were formed and organized by the election of officers, who drilled the men in military tactics. All of the meetings declared unequivocally against the ordinance of secession. Some of them went so far that they declared that in no event would they submit to secession, but would resist it to the last extremity.

The condition of the people of the north-west at this time was truly remarkable. In consequence of the violent denunciations of those who were regarded as secessionists, they wisely maintained silence, and hence nothing was heard but loud and defiant shouts of opposition to the scheme of secession. It is safe to say that a large majority of the magistracy and office-holders generally, either from conscientious scruples in relation to their oaths of office, which included that of fealty to the constitution of the State



as well as of the United States, or from inclination and sentiment, favored the secession movement. Others again refused to perform the duties of their offices by reason of the commotions of the times and the general uncertainty that pervaded all classes. No one could furnish a solution to the great problem in process of demonstration. The tenure of property became a matter of great doubt; none felt secure in the enjoyment of civil rights. Distrust was everywhere. Questions to which this generation, or indeed any past generation of American citizens, were strangers, had arisen and were to be determined; how or in what manner none could answer. Duty to the State required that the citizens should follow its fortunes and fight its battles, if not inconsistent with other and higher duties. But this was not an hour for speculation nor refining distinctions; as the past has proven, doubtful questions go down like the reed before the angry blast, in the presence of that physical force ever the arbiter in civil commotions. Where the officers of the militia were loyal to the Union cause they called out their commands and endeavored to discipline them.

It had been whispered about, first in an undertone, and then the rumor grew and swelled into a terrible reality, that there was no law. Then sprang up that class of men who for years had been, from various causes, but nominal citizens in every community; men who sought retirement from the public gaze, and who had endeavored to screen themselves by the debris of some by-gone wreck. They were now among the foremost in promoting the general confusion incident to the apparent disruption of society. Bands of armed men traversed the country, bearing at their head the national banner, shouting death to all opposers. All persons who refused, after being notified by a committee, to plant the stars and stripes before their dwelling, were held to be enemies to the Union, and were required by the force of public opinion, expressed in no unqualified terms and frequently in no undemonstrative manner, to take the oath of allegiance to the constitution of the United States. The people ceased to follow their usual avocations; the farmers left their plows in the furrows, the mechanics their anvils

and benches, not knowing who would reap the fruits of their harvest or labors. They assembled at the usual points of public manifestations, armed with their trusty rifles, and here and there a musket of antique pattern was to be seen in the hands of the descendent of a revolutionary sire.

During the excitement produced by the John Brown raid of a few years previous, several hundred stand of muskets and equipments, had been sent by Governor Wise to some of the counties in this section, for the purpose of arming the militia against invasion; there was also at the court-houses of most of the counties, quite a number of arms which had been used by volunteer companies organized under the law, and equipped by the State. These were immediately seized and distributed among the people. The whole country presented the appearance of a vast military camp, acting under no common head and acknowledging no superior power except that of superior force. Yet among the Union people, so actuated were they by a common impulse, no serious difficulties occurred. At every cross road groups of excited men were to be seen, whose firmly set mouths and determined countenances indicated the fixedness of their resolves. They were the hitherto quiet, even-tempered yeomanry of this agricultural country, whose lives had been spent in the peaceful pursuits of husbandry, now rousing themselves to the call of patriotism, with the sole inquiry, "have we a country?" The roads were picketed in every direction, and all passers were requested to give satisfactory information of their identity and errands; and the luckless traveler whose explanations were not such, was turned back in his course or only permitted to proceed under guard.

It was, indeed, a perilous hour; and it is not, perhaps, saying too much to aver that, no other people but Americans could have thus passed through every shade of anarchy with so great violence and so little bloodshed; as no instances of death by violence, have ever been authenticated. And it is, likewise, a valuable instance to the philosophic statesmen, of the superior dignity of human nature when fostered by the genial and ennobling influences of republican institutions.

Lest however, all the enthusiasm evoked by the nature of the crisis, should exceed the bounds of that holy patriotism in the name of which men may, nay ought, to purify an atmosphere pestilent with the odor of treason and tyranny, by acts unjustifiable in ordinary times, but the non-performance of which becomes criminal at others, the really earnest and firm men of the community, who felt the full force of the tremendous issues involved, enrolled themselves into companies of home guards. This step produced something of order in the immense fragments of elementary power in the country. Any attempts at lawlessness were promptly suppressed; the maliciously disposed, or those who gave evidence of Ishmaelitish tendencies, and of which every community has its representatives, were taught to know that the cause for which this people had risen, was the cause of order and law, in opposition to insurrection and rebellion; that the faithful maintenance of law was the life, breath, soul and immortality of a republic.

While this was the condition of affairs on the border and in what might be termed Northwestern Virginia proper, farther in the interior of what is now the State of West Virginia, the status was not so favorable to the Union cause. There parties were more equally balanced and consequently the contest became one of strategy as well as actual conflict. In many of the counties the secessionists had small majorities and claimed to act through the legal authority of the State government. Intimidation, therefore, became the order of the day, and when this failed, persecution sought to do what arguments and threats failed to accomplish. Being so situated that troops from the east soon found their way into them, the Union people were forced to remain quiet or betake themselves to the mountains to escape the operations of a fierce military despotism which seemed to crush out everything in its path. But whilst the spirit of the unionists was awed, it was not crushed, and many councils were held far in the recesses of the mountains, attended by a sturdy band of patriots who held their trusty rifles in their hands, whilst they deliberated and resolved. Many are the incidents related of such councils in the deep wood, whilst the wary comrades stood sentinel to warn of the ap-



proach of the foe; incidents and scenes which exceed in dramatic interest the fanciful sketches of the novelist, and possess all the charm and daring of a stern reality. It was at such meetings, in a number of instances, when hunted by the military and surrounded by the espionage of watchful and unrelenting civilians, that the national flag was carefully unfolded and kissed by the faithful patriots, who then swore with uplifted hands never to yield in its support and to die in its defense. Through the influence of such spirits, delegates were also appointed from their several counties, to the convention at Wheeling, to be held on the 13th of May.

To the meeting of that convention all looked forward with hope. That was thought to be the rallying point from which all succeeding movements would take their origin. No objections could be taken to the holding of such a convention either by the State or the Federal Government, as it was only called for the purpose of determining what course the people of the North-west should pursue; still it is quite probable that had it been in the power of the State troops, already assembled in some force, to have prevented it, no such body had ever met in Wheeling or elsewhere. In fact, the undertaking was a perilous one. No Federal troops had penetrated into Virginia, or indeed, crossed the Ohio river. A regiment of Union troops was hastily forming on Wheeling Island, under Col. B. F. Kelley, an ardent and active unionist of the times, but it was so freshly organized as to be almost unavailable for the purposes of military defense, or protection. Yet the morning of the thirteenth of May beheld the city swarming with an excited multitude of its own inhabitants, and the delegates to the convention. All were enthusiastic and eager for the beginning of the work, yet none were fully assured of the direction matters would take. By arrangement the delegates met at Washington Hall at eleven o'clock, A. M. The large building was filled to overflowing with an eager throng, whose anxious countenances depicted the depth of their feelings. It was a remarkable spectacle; the faces of the delegates were not familiar to those who had attended political meetings for several years previous. They were a new set of men whom the people had thrust forward in the peril of the emergency, whose

recommendations were, an entire sympathy with the masses in the struggle before them, and a hearty confidence in their fidelity. They were plain, unassuming men too, but as plain men always do, they possessed those traits of character which make honesty the accompaniment of simplicity. Above all, they were filled with a noble spirit caught from their constituents, an undying attachment to the government of their fathers, and a holy hope of relief from the task-masters of the east. It was a spirit grand in its conception, glorious in its development, and sublime in its execution. It was the fierce youth of the freshly lighted fires of pure and righteous revolution. The meeting was called to order by Chester D. Hubbard, of Ohio county, on whose motion William B. Zinn, of Preston county, was called to preside. George R. Latham, of Taylor county, was appointed temporary secretary. Before proceeding further in the business for which they had assembled, a venerable prelate, the Rev. Peter T. Laishley, of Monongalia county, himself a delegate, invoked the aid of Deity, on the deliberations of the body; a pious act of faith not without its usefulness in estimating the character of the delegates and the rectitude of their motives.

A committee on permanent organization and representation was appointed. In the afternoon session, John W. Moss, of Wood county, was reported for permanent president, and a long list of vice-presidents; Colonel Wagner, of Mason, Marshal M. Dent, of Monongalia, and G. L. Cranmer, of Ohio county, were appointed as secretaries.

The president on being escorted to the chair, addressed the convention. After thanking it for the honor conferred he remarked that the object of the body was to consider the unhappy condition of the country, and particularly to deliberate calmly upon the position North-western Virginia should assume in the momentous history of the country. He further said that the destiny of thousands was involved in the result of their action, and therefore it should be characterized by the solemnity befitting the occasion and by the harmony and conciliation so necessary to any movement inaugurated by the convention.

The clergyman of the city were requested, by motion, to open each day's session with religious exercises. Two door-



keepers and a sergeant-at-arms were appointed. The committee on credentials reported duly accredited delegates from twenty-six counties, as follows: Hancock, Brooke, Ohio, Marion, Monongalia, Preston, Wood, Lewis, Ritchie, Harrison, Upshur, Gilmer, Wirt, Jackson, Mason, Wetzel, Pleasants, Barbour, Hampshire, Berkeley, Doddridge, Tyler, Taylor, Roane, Frederick and Marshall. They also reported a resolution, that, the vote of the convention upon any question, when demanded by twenty-five members, should be taken by giving to each county the aggregate vote cast by it respectively at the last presidential election; and that the vote was to be cast by the chairman of the county delegations. Other questions were to be voted on *per capita*.

A committee, consisting of one member from each county represented, was appointed on State and Federal relations. The following persons composed it: C. Tarr, Brooke county; W. T. Willey, Monongalia; John S. Carlisle, Harrison; J. J. Jackson, Wood; Charles Hooton, Preston; Dan'l Lamb, Ohio; Geo. McC. Porter, Hancock; Jos. Macker, Mason; D. D. Johnson, Tyler; James Scott, Jackson; G. W. Bier, Wetzel; R. C. Holliday, Marshall; A. S. Withers, Lewis; E. T. Trahorn, Wirt; F. H. Pierpoint, Marion; S. Dayton, Barbour; G. S. Senseney, Frederick; J. S. Burdett, Taylor; A. R. McQuilkin, Berkeley; S. Cochran, Pleasants; J. E. Stump, Roane; S. Martin, Gilmer; Asbury B. Rohrbough, Upshur; O. D. Downey, Hampshire; Mr. Foley, Ritchie.

The body now fairly began its work, and on the second day resolutions were poured upon the committee. A very excited controversy sprang up on the plan to be adopted for immediate action. There were those who came to the convention, with the recollections of wrongs and insults burning in their memories; men of high resolves and unquenchable zeal, and who under the stimulus of a great excitement, were bold to rashness in their objects. This class of men came to vote for an immediate and unqualified division of the State, however violent or revolutionary it might appear. Some delegations, indeed, came to the city with a banner flying at their head, endorsed, "New Virginia, now or never." This party had a powerful leader in the Hon. John S. Carlisle, who smarting from the injustice and contumely



that he had experienced in the convention at Richmond, raised his deep resonant voice to the highest pitch of revolutionary fervor. His plan was to immediately adopt a constitution and form of government for the counties represented, and proceeded to fill the offices by temporary appointment. This was a popular idea with the mass of the convention, and it became almost perilous to oppose it; those who ventured to do so, subjected themselves for the time to the liability of having imputations cast upon their loyalty. But there was a minority, respectable, both as to members and intelligence, who felt and saw the irreparable mischief that would follow in the train of such a course. This party found a leadership in the Hon. W. T. Willey, of Monongalia, whose more equable temperament enabled him to discern the true point of distinction between spasmodic disruption and authorized resistance. It was argued that the proceeding urged by the majority was wholly unwarranted by the call that had led to this assemblage; that the delegates had not been appointed with this view nor empowered to act with such extreme vigor; that this was but an informal meeting of the people, not legally convened and could not bind the people to acquiescence either in law or reason, or by any known rule or precedent; that no vote had yet been taken by the people on the ordinance of secession, and hence the State of Virginia had a government under the constitution of the United States, at Richmond; that the Federal Government would not recognize a State created thus, because it was not after the mode prescribed in the constitution of the United States.

The whole of the second day was consumed in acrimonious debate. The partizans of both views maintained their ground with unrelenting hostility. A crisis was rapidly approaching, when a motion to adjourn was carried. Great dissatisfaction prevailed on all sides, and it appeared as though the contending parties were about to separate without arriving at any conclusion, from which good results would flow. There was that lack of harmony which is so essential to the accomplishment of great designs, when men have a common object in view, but are widely dissonant as to the manner of effecting it. On the third day the debate

was continued, but in a better spirit; the voice of better counsels was beginning to prevail, and all felt the imperative necessity of some action and that it should be, so far as the same was possible, harmonious in its character. Late at night the committee reported through its chairman, Mr. Tarr. The report was a skillful blending of all opinions. It set forth that, it was the deliberate judgment of the convention, that the ordinance of secession, by which the repeal of the ratification of the constitution of the United States was attempted, was unconstitutional null and void; that the schedule attached to that ordinance, prohibiting the election of members of the House of Representatives of the Congress of the United States, at the election on the fourth Wednesday of May, then current, was a manifest usurpation of power, to which they as freemen of Virginia, ought not to, and would not submit; that the ordinance of the convention at Richmond, ratifying and approving the agreement between the commissioners of the Confederate States and Virginia, whereby the whole military power and operations, offensive and defensive, of the State were placed under the control and direction of the president of the Confederate States, upon the same principle and footing as if the commonwealth were a member of said Confederacy, and the acts and conduct of the executive officers of the State in pursuance of said agreement, were plain and palpable violations of the constitution of the State, and utterly subversive of the rights and liberties of the people; that they earnestly recommended the citizens of the State to vindicate their rights by voting against the ordinance of secession; and that they urged upon them to vote for members of Congress of the United States in their several districts, in the exercise of their rights under the constitutions of the United States and of Virginia; that they also recommended them to vote for such persons for members of the House of Delegates, as entertained sentiments agreeing with those before expressed; that it was the imperative duty of the citizens to maintain the constitution of the State and the laws made in pursuance of the same, and all officers acting thereunder; that, in the language of Washington, expressed in his letter to the president of Congress, on the 17th of September, 1789: "In all our



✓ deliberations on this subject, we keep steadily in view that which appears to us the greatest interest to every true American, the consolidation of our Union, in which is involved our property, felicity, safety and perhaps our national existence." Therefore they would maintain and defend the constitution of the United States and the laws made in pursuance thereof, and all officers acting thereunder in the lawful discharge of their duties; that in view of the geographical, social, commercial and industrial interests of North-western Virginia, the convention was constrained to give expression to the opinion of its constituents, in declaring that in assuming to change the relation of Virginia to the Federal Government, the convention at Richmond acted not only unwisely and unconstitutionally, but adopted a policy utterly ruinous to all the material interests of this portion of the State, by severing all the social ties, and drying up all the channels of trade and prosperity; that in the event of the ordinance of secession being ratified by the people, the counties there represented, and all others disposed to co-operate, were recommended to appoint, on the 4th day of June, 1861, delegates to a general convention, to meet on the 11th day of the same month, at such place as should be designated by a committee to be afterwards appointed by the convention, to devise such measures as the safety and welfare of the people they represented should demand; each county to appoint a number of representatives to the convention, equal to double the number to which it was entitled in the next House of Delegates; and the senators and delegates to be elected at the general election on the fourth Thursday of May following, to the next General Assembly of Virginia, should be entitled to seats in the convention as members; that it being a conceded political axiom that government is founded on the consent of the governed and instituted for their good, and that the course of the ruling power of the State was utterly subversive and destructive of the interests of North-western Virginia, that the people of the same could rightfully and successfully appeal to the proper authorities of Virginia, to permit them to peacefully and lawfully separate from the residue of the State, and form a government that would give effect to their wishes,



views and interests; that the public authorities be assured, that the people of the north-west would exert themselves to preserve the peace, which they felt satisfied they could do until an opportunity was afforded to ascertain if the difficulties could not receive a peaceful solution; and expressed a hope that no Confederate troops would be introduced among them, as the same would be calculated to produce civil war; that a central committee of five be appointed with powers to carry out the object of the convention and to assemble the body at any time it might think necessary; and that such counties represented, and all others disposed to co-operate, would appoint a committee of five to attend to all things necessary to be done and to correspond with the central committee. After but little discussion, the report was adopted by the body; but two voices in the vast throng being dissentient. The central committee was appointed as follows: John S. Carlisle, James S. Wheat, Chester D. Hubbard, Francis H. Pierpoint, Campbell Tarr, George R. Latham, Andrew Wilson, S. H. Woodward and James W. Paxton. A vote of thanks was tendered to the citizens of Wheeling for their hospitality; also to the president and other officers of the body. Several eloquent speeches were made. A prayer was then offered, invoking the blessings of Heaven upon the labors of the meeting. The "Star Spangled Banner" was sung by the united voices of over a thousand people; three cheers were given for the Union, and amid a blaze of enthusiasm, the convention adjourned *sine die*.

Thus closed the session of as earnest and fearless a body of patriots as ever assembled in this or any other country in any age. The convention was composed of about five hundred in number, representing every shade and degree of former political opinions, yet not one word of their former associations was brought forward to disturb the equilibrium or excite the jealousy of any particular party. Over all were spread those great clouds of lowering danger and portentous gloom, which caused all minor differences to dissipate before the general instincts of self-preservation.

After this event, matters progressed with more regularity; and the superiority of combined action over vague and ill-concerted movements, however much spirit they might

possess, or stern enthusiasm might be evoked, was made manifest by the well-timed public demonstrations and systematic convocations, brought about by the potent agency of the county committees.

A large meeting of citizens was held in Berkeley county, on the 13th of May, which it is proper to notice, from the fact of that county lying at the foot of the valley of the Shenandoah from which issued such numerous bands of secessionists who overran the country. The preamble is a master-piece of statement remarkable for the genuine patriotism in every line, and the truthfulness of the charges alleged against the secessionists, whilst it furnishes a complete vindication for the cause to which they committed themselves in their resolutions. They warn their brethren of the States, that if their course be persisted in the division of the State was inevitable; they declared that they knew of no oppression by the Federal Government; that they owed no allegiance to any section of the country, but to a United Republic of Free States; and that they would cast their votes against the ordinance of secession.

From the close of the convention till the election which took place on the 23rd of the same month, the country was in a feverish excitement. In the north-west the feeling against secession became an absolute passion. Nothing could withstand the tremendous weight of public sentiment so unequivocally placed in the balances against it.

The central committee appointed by the convention, issued an address to the people of the north-west, replete with argument and glowing with patriotism. The address urged them to prepare themselves for a firm and decided stand against the efforts of the secessionists to destroy the unity of government through which alone their liberties could be transmitted to posterity. To do so, was the only means of saving themselves from the horrors of civil war. The people of the north-west should not permit themselves to be dragged into a rebellion inaugurated by ambitious men for the purpose of destroying a government formed by their patriotic fathers, and which had secured to them all the liberties consistent with the nature of man; whilst it had sheltered them for more than three quarters of a century in



sunshine and storm, and conferred upon them a title more honored, respected and revered than that of king or potentate—the title of an American citizen. Freemen who would remain free must prove themselves worthy to be free, and strike the first blow.

Secession was not a deed accomplished in the broad glare of a noon day sun, but a deed of darkness, which was performed in secret conclave, in contempt of the people, by reckless spirits who were determined to enslave them. It was bankruptcy, ruin and civil war, ending in military despotism. Prior to the adoption of secession all was peace and prosperity, since then all was confusion, business was paralyzed, State, corporation and individual credit were prostrated and civil war was upon them.

Who would stand the brunt of this war? not those who inaugurated it; they would remain at a respectable distance from danger, and fill the lucrative offices, whilst those whose heart were for the Union, would be called upon to uphold the honor of Virginia at a mere pittance per day, and undergo all the hardships of war. Was this the only way that devotion to the honor of the commonwealth could be manifested? A far better evidence would be exhibited by repudiating the tyrannical rule of the secession convention. The people would resist this tyranny, and would stand by the liberties secured by the Revolutionary fathers, and the authors of the constitution. As yet no resistance had been offered to the quartering of troops in the country, and to the taking of the young men, who in times of profound peace had attached themselves to volunteer companies, to fill armies to aid in a rebellion; but stunned by the magnitude of the crime, the people had already sent up the cry of “resistance to tyrants is obedience to God.” The people were urged to send representatives to the convention to assemble on the 11th of June, which was to organize action. They were requested to remember the words of the president of the Montgomery convention, Howell Cobb, who had declared that the people of the Gulf States need have no apprehensions, as the theatre of war would be along the borders of the Ohio river and in Virginia. They were also cited to the remark of the Hon. Daniel Webster, in 1851,



that, the inhabitants of that portion of Virginia between the Alleghany mountains and the Ohio and Kentucky borders, could not hope to remain a part of Virginia one month after Virginia had ceased to be a part of the United States.

On the 23rd, election day, much excitement prevailed, but no serious breaches of the peace occurred throughout the north-west. The people voted for members of the House of Representatives of the Federal Congress, in the three districts west of the Alleghanies. In twenty-five counties embracing a part of what is now West Virginia, there was a majority of over twenty-four thousand votes against secession. In many of these counties, the vote was larger than that polled in 1860 for president; in some of them the vote was as great as twenty-two against secession, to one for it. In the twenty-five other counties the majority was about sixteen thousand against secession. Out of about forty-four thousand votes in the counties of the north-west, forty thousand were cast against the fatal ordinance. Shortly after the election an advance was made by the Union forces from the west simultaneously along the lines of the Baltimore and Ohio railroad from Wheeling, and along the North-western Virginia railroad from Parkersburg. This put the rebel forces at Grafton to flight; from whence they fell back to Phillippi in Barbour county, where they were surprised and barely escaped capture by the loss of their camp equipage, munitions of war, arms and other property. They retreated to Rich mountain and Laurel mountain, from whence they were subsequently driven by the skillful and brave lieutenants of General George B. McClellan, then in command of the Department of the Ohio. This last movement completely dislodged the secessionists from the north-west, and they never gained a foothold therein during the succeeding struggle, but were compelled to be content with annoying the inhabitants by predatory bands of horse thieves and raiding free booters.

Such was the unanimity of the people on the subject of secession as disclosed by the returns of the election, that all opposition to the prevailing sentiment at once ceased, and but one voice was heard throughout the north-west. Great interest was manifested in the coming election for delegates

to the convention on the 11th of June. The county committees appointed persons to hold the election at the various precincts on the 4th of June. There was a full vote in many of the counties, and delegations of the best men were returned.

The delegates met at Washington Hall, in Wheeling, on the 11th of June, 1861. The committee on credentials reported delegates from thirty-one counties, including senators and members of the House of Delegates. This number was subsequently augmented to thirty-five counties, producing an aggregate of seventy-seven members. Arthur I. Boreman, of Wood county, was unanimously chosen president of the convention; G. L. Cranmer, of Ohio county, was elected secretary. Other officers were also appointed. The committee recommended a form for the oath of the president, which was adopted. It required him to swear to support the constitution of the United States, and the laws made in pursuance thereof, as the supreme law of the land, anything in the ordinances of the convention which assembled in Richmond on the 13th of February, 1861, to the contrary notwithstanding. The report further provided that all members of the convention should take a similar oath, to be administered by the president. The president took the oath upon assuming the chair; it being administered by a justice of the peace; after which, the members took the oath, as they were called forward by delegations.

The body being duly organized many interesting questions arose as to the objects to be attained and the mode of arriving at substantial results. There were in this, as in the May convention, many men whose primary and sole hope lay in the immediate formation of a government for the counties represented, wholly independent of the organism of the old State, and in total disregard of the officers then performing its functions. They claimed that the conduct of the executive authorities, acting under the ordinance of secession, was not warranted by the constitution of the United States, and that it was, therefore, revolutionary in its character, and as such was open to resistance that had for its basis a submission to that constitution; and hence was justifiable. It was held, however, by the majority,



many of whom had entertained similar sentiments in May, but in whom the revolutionary heat had subsided into a steady glow of legalized opposition, that whilst the ordinance of secession was in itself a nullity, still the position of the people of the State was not changed towards the Federal Government; that whilst in a monarchy, the throne could only be declared vacant by a greater or less degree of violence according to circumstances, where the monarch had abdicated or violated his contract with the people, which was his oath to preserve their liberties, that in a republic where the rulers were mere functionaries, when those rulers usurped the liberties of the people or abdicated of their own motion, those unalterable principles which had received the endorsation of the founders of the American Government, came forward to their relief, and declared that as the people were sovereign, when government failed to fulfill the purposes for which it was created, the temporary authority delegated to the rulers, reverted to them with the stamp of peaceful legitimacy, and as of right. This doctrine had a precedent in the case of the change of succession consequent upon the flight of James the Second, when the estates of the realm declared that the reigning monarch had violated his contract with the people by various acts of tyranny, so far as the same can be analogous to a republican form of government.

The question was not a new one, but the application of the principle was, for the first time, to be attempted in American politics. The ordinance of secession was mere phraseology, which effected no change in the relation of the people of Virginia to the Federal Government. The constitution of the United States is the supreme law of the land. It was adopted by the people of the United States in their sovereign capacity, and can only be changed or amended by the same power which created it. No provision is made for wholly annulling it. To change or amend it requires the assent of three-fourths of the States acting through their legislatures, or conventions specially called for the purpose, as shall be determined by Congress. When therefore, any State, or combination of parties, seeks to change or amend the constitution in any other mode than that prescribed by



the instrument itself, the movement is clearly contrary to the organic law and as such is revolutionary. How much more so does it become when the whole is sought to be annulled and destroyed? It is the "supreme law" of the land, and the people of each and every State can appeal to every branch of its legitimate departments for protection against any power that seeks to disturb its action or thwart its laws in their midst, though that power should be their own State government. And in the maintenance of the principle and for the purposes of its establishment, a minority may make such appeals, with all the force of, and perhaps oftener with more justice than, the majority.

To follow this course, was soon disclosed to be the intention of the majority of the convention. Before proceeding to make an appeal to the Federal Government, they resolved formally to declare in justification, the motives which impelled them to adopt such policy. The committee which was appointed to prepare and report business to the body consisted of thirteen members:—Carlisle, of Harrison, Lamb, of Ohio, Pierpoint, of Marion, Hagans, of Preston, Van Winkle, of Wood, Berkshire, of Monongalia, Polsley, of Mason, Boreman, of Wood, Caldwell, of Marshall, Frost, of Jackson, Porter, of Hancock, Farnsworth, of Upshur, and Copley, of Wayne.

On the 13th of June, but two days after the session began, they reported a declaration, which will be found to contain such a statement of grievances as will compare with any known precedents. But it can be maintained that, whilst the matters alleged were sufficient justification for revolutionary acts, still the anomalous condition of affairs and the structure of the government are a vindication of the policy on abstract principles. No government existed in Virginia recognized by the constitution of the United States; therefore it was the duty of the people to erect one. It was an absolute duty not confined alone to the impositions of responsibility resting on civilized men, but impelled by the discharge of a high patriotic trust, in the interest of constitutional government. The declaration is in the following language:

*“A Declaration of the People of Virginia, represented in Convention, at the city of Wheeling, Thursday, June 13, 1861.*

“The true purpose of all government is to promote the welfare and provide for the protection and security of the governed; and when any form or organization of government proves inadequate for, or subversive of this purpose, it is the right, it is the duty of the latter, to alter or abolish it. The Bill of Rights of Virginia, framed in 1776, reaffirmed in 1830, and again in 1851, expressly reserves this right to a majority of her people. The act of the General Assembly, calling the convention which assembled at Richmond in February last, without the previously expressed consent of such majority, was therefore a usurpation; and the convention thus called has not only abused the powers nominally intrusted to it, but, with the connivance and active aid of the Executive, has usurped and exercised other powers, to the manifest injury of the people, which, if permitted, will inevitably subject them to a military despotism.

“The convention, by its pretended ordinances, has required the people of Virginia to separate from and wage war against the government of the United States, and against the citizens of neighboring States, with whom they have heretofore maintained friendly, social and business relations.

“It has attempted to subvert the Union founded by Washington and his co-patriots, in the former days of the Republic, which has conferred unexampled prosperity upon every class of citizens, and upon every section of the country.

“It has attempted to transfer the allegiance of the people to an illegal confederacy of rebellious States, and required their submission to its pretended edicts and decrees.

“It has attempted to place the whole military force and military operations of the commonwealth under the control and direction of such confederacy, for offensive as well as defensive purposes.

“It has, in conjunction with the State Executive, instituted, wherever their usurped power extends, a reign of terror intended to suppress the free expression of the will of the people, making elections a mockery and a fraud.

“The same combination, even before the passage of the pretended ordinance of secession, instituted war by the



seizure and appropriation of the property of the Federal Government, and by organizing and mobilizing armies, with the avowed purpose of capturing or destroying the capital of the Union.

“They have attempted to bring the allegiance of the people of the United States into direct conflict with their subordinate allegiance to the State, thereby making obedience to their pretended ordinance treason against the former.

“We, therefore, the delegates here assembled in convention to devise such measures and take such action as the safety and welfare of the loyal citizens of Virginia may demand, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy commonwealth must be reduced unless some regular adequate remedy is speedily adopted, and appealing to the Supreme Ruler of the universe for the rectitude of our intentions, do hereby, in the name and on behalf of the good people of Virginia, solemnly declare that the preservation of their dearest rights and liberties, and their security in person and property, imperatively demand the reorganization of the government of the commonwealth, and that all acts of said convention and Executive, tending to separate this commonwealth from the United States, or to levy and carry on war against them, are without authority and void; and that the offices of all who adhere to the said convention and Executive, whether legislative, executive, or judicial, are vacated.”

It received the unanimous vote of the convention on the seventeenth following.

The convention then proceeded to reorganize the government of Virginia. The committee reported an ordinance on the fourteenth, which received the unanimous sanction of the body on the nineteenth, after a few verbal amendments. To show that the convention was actuated by a spirit of candor, and entertained a true regard for the dignity of the undertaking in which they were engaged, as well also the magnanimity of their enlightened patriotism, it is proper to state that an amendment offered to the effect that, no person who had voted for the ordinance of secession should be eligible to hold any office, during the exis-



tence of hostilities by the seceding States against the Federal Government, was voted down by a majority of five to one. The whole document is as follows :

*“An ordinance for the reorganization of the State government passed June 19, 1861.*

“The people of the State of Virginia, by their delegates assembled in convention at Wheeling, do ordain as follows :

“1. A Governor, Lieutenant Governor, and Attorney General for the State of Virginia shall be appointed by this convention, to discharge the duties and exercise the powers which pertain to their respective offices by the existing laws of the State, and to continue in office for six months, or until their successors be elected and qualified ; and the General Assembly is required to provide by law for an election of Governor and Lieutenant Governor by the people as soon as in their judgment such an election can be properly held.

“2. A council, to consist of five members, shall be appointed by this convention, to consult with and advise the Governor respecting such matters pertaining to his official duties as he shall submit for consideration, and to aid in the execution of his official orders. Their term of office shall expire at the same time as that of the Governor.

“3. The delegates elected to the General Assembly on the 23rd of May last, and the senators entitled under existing laws to seats in the next General Assembly, together with such delegates and senators as may be duly elected under the ordinances of this convention, or existing laws to fill vacancies, who shall qualify themselves by taking the oath or affirmation hereinafter set forth, shall constitute the legislature of the State, to discharge the duties and exercise the powers pertaining to the General Assembly. They shall hold their offices from the passage of this ordinance until the end of the terms for which they were respectively elected. They shall assemble in the city of Wheeling, on the 1st day of July next, and proceed to organize themselves as prescribed by existing laws, in their respective branches. A majority in each branch of the members qualified as aforesaid shall constitute a quorum to do business. A majority of the members of each branch thus qualified, voting affirmatively,

shall be competent to pass any act specified in the twenty-fourth section of the fourth article of the constitution of the State.

“4. The Governor, Lieutenant Governor, Attorney General, members of the legislature, and all officers now in the service of the State, or of any county, city or town thereof, or hereafter to be elected or appointed for such service, including the judges and clerks of the several courts, sheriffs, commissioners of the revenue, justices of the peace, officers of the city and municipal corporations, and officers of militia, and officers and privates of volunteer companies of the State, not mustered into the service of the United States, shall each take the following oath or affirmation before proceeding in the discharge of their several duties :

“I solemnly swear (or affirm) that I will support the constitution of the United States, and the laws made in pursuance thereof, as the supreme law of the land, anything in the constitution and laws of the State of Virginia, or in the ordinances of the convention which assembled at Richmond on the 13th of February, 1861, to the contrary notwithstanding; and that I will uphold and defend the government of Virginia as vindicated and restored by the convention which assembled at Wheeling on the 11th day of June, 1861.”

“If any elective officer, who is required by the preceding section to take such oath or affirmation, fail or refuse so to do, it shall be the duty of the Governor, upon satisfactory evidence of the fact, to issue his writ declaring the office to be vacant, and providing for a special election to fill such vacancy, at some convenient and early day to be designated in said writ; of which due publication shall be made for the information of the persons entitled to vote at such elections; and such writ may be directed, at the discretion of the Governor, to the sheriff or sheriffs of the proper county or counties, or to a special commissioner or commissioners to be named by the Governor for the purpose. If the officer who fails or refuses to take such oath or affirmation be appointed by the Governor he shall fill the vacancy without writ; but if such officer be appointed otherwise than by the

Governor or by election, the writ shall be issued by the Governor, directed to the appointing power, requiring it to fill the vacancy.

On the following day, June twentieth, the convention went into an election for officers as provided by the first clause of the ordinance. Francis H. Pierpoint, of Marion, was unanimously elected Governor of Virginia; Daniel Polsley, of Mason, was elected Lieutenant Governor, without opposition. A few days afterward, James S. Wheat, of Ohio, was chosen Attorney General. Peter G. Van Winkle, of Wood, Daniel Lamb, of Ohio, William Lazier, of Monongalia, William A. Harrison, of Harrison, and J. T. Paxton, of Ohio, were selected as members of the Governor's council, under the second clause of the ordinance.

It will be observed that no changes were made in the form of the government, and none essentially varying its administration. It was mere reorganization or restoration.

Upon the election of the Governor, he was waited upon by a committee who informed him of the fact, and escorted him to the hall of the convention, where he took the prescribed oath before a justice of the peace, in the presence of the convention. A resolution was adopted providing for the appointment of a committee to procure a great and a lesser seal, the seals of the commonwealth being in the possession of the late Executive, respectively bearing on obverse and reverse the devices and mottos on the seals theretofore used by the State, with the addition on each seal of the words, "Liberty and Union." There was a peculiar propriety in this, which excites greater interest, when it is remembered that the seals of Virginia bear the device of a slave of the plebeian order, who having broken the bonds of his servitude and obtained the ascendancy over his master, stands triumphantly with his foot upon the despot's prostrate form, illustrating the motto of "*Sic Semper Tyrannis*" circling around him. So likewise did the "peasantry of the west," in the name of Liberty and Union.

Resolutions were passed setting forth that, foreign and domestic traitors had driven many peaceable citizens from their homes, by threats of injury and death, for no other crime than fidelity to the constitution of the fathers, and had



disregarded the right of suffrage by surrounding the polls with cannons and bayonets, thereby excluding citizens from the free exercise thereof; and that they had attempted to set aside the supreme law of the land, by ordering that no election should be held for a representation in the Congress of the United States. They therefore appealed to the government of the United States, to which their highest allegiance was due, for protection against the armed invaders, and for the aid guaranteed by the constitution to secure the continuance of a republican form of government.

An ordinance was adopted relating to the receipt and disbursement of public revenue, requiring the General Assembly so soon as convened to elect an Auditor of Public Accounts, a Treasurer and Secretary of the commonwealth, and providing the mode for the qualification of these officers and their duties. Also an ordinance to authorize the apprehension of suspicious persons in time of war.

Having reorganized the government and elected a chief executive officer and provided for the election of all other officers, civil and military, the labors of the convention were evidently drawing to a close. Nothing had been done that appeared to directly inaugurate the popular movement for the formation of a new State. In reality, however, the true theory had been adopted, and the only legitimate mode of arriving at that most desirable result, had been conceived and acted upon by the convention. If the government thus restored, was acknowledged by the Federal authorities, as the only government in Virginia, then the legislative branch of it could give its assent to the formation of a new State, as provided for by the constitution of the United States. Leaving the great question to be adjusted at a subsequent day, the convention adjourned on the twentieth of June, to meet on the first Tuesday in August.

The General Assembly met, in pursuance of the ordinance of the convention, at Wheeling on the 1st day of July. The session was held at the Custom House, where the Governor had already established his office, and where the other offices of the government were subsequently located.

The House of Delegates organized by the election of a

temporary clerk who enrolled the members, when it was ascertained that there were thirty-one present. A permanent clerk was elected, one of the members enrolled calling the names of delegates. A speaker was then chosen. A committee waited upon the Governor, who transmitted his message to both houses. The message was a plain statement of the history of the movement, including the action of the Richmond convention, and the subsequent acts of the late executive and other officers of the State. They were at war with the loyal people of the State and the constitutional government of the United States. After a review of the matters leading to his election, the Governor proceeded to state that he had communicated with the President of the United States, briefly reciting the circumstances with which the loyal government of Virginia was surrounded and claiming protection against invasion and domestic violence. He had received assurances from him, through the Secretary of War, that such aid as the constitution guaranteed in such cases should be promptly given.

He transmitted copies of communications received from the Secretary of the Interior, certifying officially the apportionment of representation in the thirty-eighth Congress, to which Virginia was entitled under the census of 1860. He called the attention of the General Assembly to the fact of a proclamation by the President of the United States, convening Congress, on the fourth of the month, and that the senators from Virginia were engaged in the conspiracy to overthrow the Federal Government, and recommended the election of senators to fill the vacancies caused by their defection. A considerable portion of the message was also devoted to matters demanding a change to suit the altered condition of affairs.

On the 9th of July, the houses on a joint vote, elected L. A. Hagans, of Preston, secretary of the commonwealth; Samuel Crane, of Randolph, Auditor of Public Accounts, and Campbell Tarr, of Brooke, Treasurer. On the same day they elected John S. Carlisle, of Harrison, and Waitman T. Willey, of Monongalia, senators to the Federal Congress.

The legislation of this session was principally of a military character. Laws were enacted for the raising and



equipping of State troops, and to facilitate the organization of companies for Federal service. The salaries of public officers were fixed and a general law staying the collection of private debts was passed. The session closed on the twenty-fourth of the month.

On the election of the senators, they went to the Federal capital, where, with the representatives chosen at the May election, they were admitted to seats in the respective houses, as senators and representatives from Virginia.

The triumph of the movement was fully completed shortly afterwards by the proclamation of the Governor ordering elections for the judges of the several circuits of the west, in consequence of the posts being vacated by the participation of the incumbents in the rebellion, or from failing to take the oath prescribed by the convention. Every branch of the government was at length in full operation, with all the fictions of the law and all the positive enactments on the statute books, in full force and effect.

This position placed the loyal people of Virginia on a firm basis. They now had a government organized with every stamp of legitimacy known to modern political science.

Their government received the full sanction of the Federal authorities, by express recognition, and by being the medium of communication to the people, according to the constitution and laws. They could not be regarded as rebels, nor indeed as revolutionists, unless the doctrine of secession in its most obnoxious sense was conceded.

It was not without a just and honorable pride that they regarded the result of their labors. Aside from the consciousness of having performed a solemn duty to their country, they beheld officers of their choice residing in their midst, elevated to high and responsible trusts. Hitherto the people of the north-west had seen the offices filled and enjoyed by the east. In the whole history of the State but one Governor had ever been selected from this section, and he on one occasion barely escaped the violence of a mob at the capital. In no instance had any of the Federal offices, except representatives, been given to them. But now there was found among them, men, who on being transplanted from the bar to the senate, shed a lustre upon their State,



by the brilliancy of their talent, in no wise inferior to the great lights of Virginia in her halcyon days. The lawgivers and statesmen were the yeomanry, improvised by the logic of events.

There was still a question of primary importance agitating the people. They were not content with having erected for the old commonwealth, a government in fact as well as in right. The sum of the North-western Virginian's hopes was centered in a new State of homogeneous people, west of the Alleghanies. It was felt, therefore, by the convention on reassembling on the 6th of August, that they had but one duty to perform.

The convention was augmented by the appearance of several members from the Kanawha valley counties, which had, during the previous session, been occupied by the secession forces, under General Henry A. Wise. This latter section had, from the outbreak of hostilities, been prevented from participating in the thrilling scenes already recorded; it had been the theatre of outrage and violence through the erratic course of the General commanding. Mock courts had despoiled citizens of their property in the name of justice, and life was held on the tenure of abject acquiescence. The advance of a column of Union troops under General Cox, put the enemy to flight and restored the sentiment of the country to its opposition to the secession cause. These new members were burning with the memory of insult, contumely and wrong. They were eager to participate in the work of division. On the twentieth of the same month, the convention passed an ordinance providing for the formation of a new State out of a portion of the territory of the State of Virginia. It described the boundaries of the State so to be formed, and included the counties of Logan, Wyoming, Raleigh, Fayette, Nicholas, Webster, Randolph, Tucker, Preston, Monongalia, Marion, Taylor, Barbour, Upshur, Harrison, Lewis, Braxton, Clay, Kanawha, Boone, Wayne, Cabell, Putnam, Mason, Jackson, Roane, Calhoun, Wirt, Gilmer, Ritchie, Wood, Pleasants, Tyler, Doddridge, Wetzel, Marshall, Ohio, Brooke and Hancock; thirty-nine in all.

All qualified voters within these counties, should be enti-

tled to vote on the question of the formation of the new State, which was to be called the State of Kanawha, at an election to be held on the fourth Thursday of October succeeding; at which time, also, delegates should be elected to a convention to form a constitution for the proposed State. That convention was empowered to change the boundaries so as to include the counties of Greenbrier and Pocahontas, or either of them, and the counties of Hampshire, Hardy, Morgan, Jefferson and Berkeley, or either of them, and also all counties contiguous to the boundaries of the proposed State or to the counties just named, if the people thereof by a majority of the votes given in any of them should express a desire to be included, on the same day that the election was held in the other counties, and should elect delegates to the convention. Provision was made for the manner of conducting the election, and the officers by which it was to be held. Authority was given to voters to exercise the privilege in any part of their counties, where the usual places of voting were in possession of military forces or hostile assemblages. All officers were required to take the oath prescribed by the convention at the previous session. Returns were to be made to the secretary of the commonwealth at Wheeling. The Governor was required to ascertain the result and make proclamation of the same, on or before the 15th of November succeeding; and if a majority of the votes cast was in favor of the formation of a new State, he should call the delegates elected to meet in Wheeling on the 26th of November, to organize themselves into a convention. The convention was required to submit to the people within the boundaries, for ratification or rejection, a constitution for the new State, on the fourth Thursday of December following.

The Governor was required to lay before the General Assembly at its next meeting, for its consent according to the constitution of the United States, the result of the vote, if it was found that a majority was in favor of the new State, and also in favor of the constitution proposed to the voters for their adoption.

It was provided that the new State should take upon itself a just proportion of the public debt of the common-



wealth of Virginia, prior to the 1st day of January, 1861, to be ascertained by charging to it all State expenditures within its limits, and a just proportion of the ordinary expenses of the State government, since any part of it was contracted; and deducting therefrom the moneys paid into the treasury of the commonwealth from the counties included within the new State during the same period. All private rights and interests in lands within the proposed new State derived from the laws of Virginia prior to such separation, were to remain valid and secure under the laws of Virginia, and be determined by the laws then in force. When the consent of the General Assembly to the formation of the new State, should be obtained, it should forward the same to the Congress of the United States, together with the constitution, and request that the new State be admitted into the Federal Union.

The government of Virginia as reorganized by the convention, was to retain undiminished and unimpaired all the powers and authority with which it had been vested, until the proposed State was admitted into the Union by Congress; and nothing in the ordinance was to impair its authority in any counties not included within the new State boundaries. On the same day, the convention passed a resolution to adjourn on the following day, to stand adjourned until called by order of the President or the Governor; and if not so convened by the first Thursday in January, 1862, to then stand adjourned *sine die*.

The body closed its sessions on the 21st day of August, 1861, after an unusually harmonious session. The harmony that prevailed was the chief means of the success that followed the undertaking. All seemed inspired with a common purpose and design, and even those refractory minds which are everywhere to be met with in deliberative bodies, yielded a ready acquiescence to measures that promised so fairly to bring about results that all had in view, though not in entire concord with their peculiar dogmas. But the achievements of the convention were, indeed, of no ordinary character. That government, which in Virginia had been held in unbroken succession from the settlement of Jamestown, by English noblemen, or their republican descendents



subsequent to the revolution, and which beginning, "by the Grace of God," in one man, and continued by the favor made common to all men, had been ended amid the throes of a hasty suicide, and overthrown by a government erected by the efforts of statesmen new rising from the body of the people, and which did not require the stamp of antiquity to make it legitimate, or the title by prescription to invest it with the mystery of aged and honorable dignities. It had supplanted a government which it declared to be at war with the vital principles of every republic, and in doing so looked neither to its venerable escutcheon, nor to the long list of illustrious names connected with its administration, who had made themselves immortal by the defence of liberal sentiments and in resisting the encroachments of tyranny. It had emasculated the functions of its executive officers, who had grasped with impious hands the jewels of the nation and sought to apply them to base uses. And yet this complete transfer of governmental functions was not revolution, but the restoration of principles to their pristine vigor and purity. Neither was it usurpation of established privileges and inherent rights, which in monarchies are indefeasible by virtue of time and founded on uncontradicted precedent, but rather the resumption of a trust falsely sustained and a reassertion of what was yielded for use and not abuse. In other forms of government the principle can only be asserted when the nation is called to witness the close of a tragedy, in America it is the prologue which has for its object the statement and disposition of relative positions, that may, happily, avert the calamity, so far as the inherent defects of humanity can be controlled by purely moral inquiry. It is useless, perhaps, to attempt to contradict the affirmative of the proposition, that all changes and reform, either in the material or moral world, have their origin or development in or by the aid of physical force, either directly or indirectly applied; or indeed that power has not, to a certain degree its absolute rights, heterodox as this latter may seem; still it cannot be denied that the American system of government presents less liability to become the object of attack by the various passions that afflict and curse governments, than any other. In a republican government, the people revolutionize, change

or reform in a peaceful manner, if the cardinal points of republicanism are kept in view ; in a monarchy these things are almost universally attended by violence and bloodshed. A bad ruler is the creature of a limited season, in the former : a vicious monarch is often a death knell to the hopes of two or three generations. An appeal to the arbitratment of the sword in a monarchy, ends either in the fitful glare of red-dened anarchy, or the profound gloom of darkened despotism; whilst a republic, as the past few years of fearful struggle have demonstrated to positive truth, may sustain the shock of civil war in its most gigantic attitude, and emerge from the smoke of contending fields, without a privilege restricted, a franchise withdrawn, a right invaded, or a liberty impaired.

The movement for a new State now assumed a form that promised success, and the people gave a hearty support to the cause. It required but little canvassing to bring out a favorable response from those citizens who were loyal to the Federal government. They were fully alive to the importance of the new State, as a matter of protection from the east, which they had dared to battle by their adherence to the national government; and fearing that when the contest should close and Virginia was restored to her allegiance to the Union, that the same policy which in times of peace had been so unjustly exercised towards them, would be redoubled through the conscious inferiority that would haunt the memories of a traitor majority. The vote was taken on the day prescribed by the convention in August. Many of the counties in the interior were nominally in the possession of the rebels; the vote in them was necessarily small, as numbers whose hearts were in the cause were deterred by the actual or threatened presence of physical force, from participating in the election. The result however fully satisfied the expectations of the chiefs of the enterprise. The vote stood eighteen thousand four hundred and eight for the new State, and seven hundred and eighty-one against it. At this time there were nine or ten thousand soldiers in the ranks of the Union army from Western Virginia, who did not vote on the question, or at least but a small portion of them did so, and whose votes would have been united for the project; many citizens had gone south into the ranks of the rebels.



These facts account for the apparent disparity of the vote on this occasion, and that given six months before on the ordinance of secession.

Delegates to the convention were sent up from all the counties now embraced in the State of West Virginia (excepting those created since its formation) except Jefferson, Berkeley, Webster and Monroe. The body convened on the 26th of November, 1861, in Wheeling, in the Federal court room at the custom house. It was composed of able and enlightened men who addressed themselves to their task with a just appreciation of its consequences to themselves and posterity.

On the 14th of December, Mr. Battelle, a delegate from Ohio county, offered a series of propositions designed to be engrafted into the constitution, in relation to African slavery, that brought about great debate, which happily was sustained in a spirit of fairness and candor, not always hitherto the accompaniment of the investigation of that singularly perplexing subject. His proposition embraced a provision that slaves should not be brought into the State after the adoption of the constitution; that the legislature should have full power to make laws for the better regulation of the domestic relations of the slaves then in the State, and for the gradual removal of slavery; and that slavery or involuntary servitude except for crime should not exist after a certain period, to be designated by the convention. After a prolonged struggle the propositions were defeated by a majority of one. The convention adjourned on the 18th day of February, 1862, after having completed its labors and framed a constitution, to be submitted to the people on the 3rd day of April, 1862.

The constitution submitted comprised many radical changes in the organic law as previously adopted in Virginia. It composed the State of West Virginia out of forty-four counties, absolutely; and provided that the counties of Pendleton, Hardy, Hampshire and Morgan should also be included if a majority of the votes cast at the election on the adoption of the constitution in those counties should be in favor of that adoption; and that if these latter should be so included, then by a similar vote in the counties of Berkeley, Jefferson



and Frederick, they should also be included.\* The liberties secured to persons and the rights of property as set forth in the Virginia Bill of Rights were incorporated into the new constitution. The old system of *viva voce* voting was abrogated and that of the ballot substituted. The office of Lieutenant Governor was abolished. The old county court system, which had become in Virginia a supremely antiquated folly, was dissipated by a healthier system of judicial circuits. A still greater change in the structure of the municipal body was effected in the erection of townships for the regulating of local affairs. It was a step toward practical freedom never before permitted in Virginia. Taxation was made equal and uniform for the first time in the history of this people. A check was placed upon the system of granting the credit of the State to corporations, which had enthralled Virginia in a debt of millions. No debts were to be contracted by the State, except to meet the casual deficits, to redeem a previous liability or to defend the State in time of war. An equitable proportion of the debt of Virginia prior to January 1st, 1861, was to be assumed by the new State. The vast schemes of land piracy which had so confused the titles to real estate west of the Alleghanies, and had so retarded the settling of the country, were wholly uprooted by a provision that no further entries upon waste and unappropriated lands should be made. But the feature of the instrument that demonstrates most clearly the spirit of enlightened patriotism and enlarged sense of genuine interest in the cause of humanity, was the liberal provision for the establishment of a system of free

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\*The counties of Berkeley and Jefferson did not vote on the adoption of the constitution at the time the question was submitted to the remaining part of the State, but the General Assembly of Virginia passed an act for the former on the 31st of January, 1863, and for the latter on the 4th of February, following, providing that polls should be opened on the fourth Thursday of May, ensuing, for the purpose of taking the sense of the qualified voters of these counties on the question of including them within the boundaries of West Virginia; and if a majority of the votes cast at that election was in favor of being so included, the Governor of Virginia should certify the same under the seal of the State, to the Governor of West Virginia, and that then those counties should become a part of West Virginia, when the legislature of the latter should consent to the same. Subsequently, on the 5th of August, 1863, the legislature of West Virginia gave its consent to the admission of Berkeley, and provided for the election of county officers; similar enactment was had in the case of Jefferson county on the 2nd day of November, 1863. A question having arisen as to whether the act of Congress admitting West Virginia into the Union under the constitution adopted by the people embraced these counties, a subsequent act was passed by the thirty-ninth Congress, at its first session, legalizing the transfer of the counties by the State of Virginia to West Virginia.

schools. All the proceeds of the public domain were appropriated to this object ; giving to it everything upon which the primary basis of a State is formed. The legislature was also required to provide for the establishment of schools as soon as practicable. All the proceeds of forfeitures, confiscations and fines accruing to the State were devoted to the school fund ; thus providing that the consequences of crime, should supply the source of virtue. Such parts of the common law and statutory laws of Virginia as were in force at the time the constitution went into operation and not repugnant thereto, were to remain and continue the law of West Virginia until altered or repealed by the legislature of the latter. And all offences theretofore committed against the same were to be cognizable according to the laws of Virginia.

The constitution was submitted to the people of the counties embraced within the proposed new State, on the 3rd day of April, 1862, and resulted in its adoption by a vote of eighteen thousand eight hundred and sixty-two in its favor, and five hundred and fourteen against it. At the same time, some of the advanced friends of the movement held a separate poll and took an informal vote on the propositions of Mr. Battelle, and about six thousand votes were cast in favor of them. The total population of the forty-eight counties in 1860, was three hundred and thirty-four thousand, nine hundred and twenty-one whites, and twelve thousand, seven hundred and seventy-one colored.

The legislature of the reorganized government assembled on the sixth of May, following, and gave its formal assent, by the passage of a bill on the thirteenth of the same month, to the formation and erection of the State of West Virginia within the jurisdiction of the State of Virginia, according to the stipulations and provisions of the constitution of the new State. It also provided that the counties of Berkeley, Jefferson and Frederick should be included in and form a part of the State of West Virginia, whenever the voters in the same should ratify the constitution and assent thereto, at an election held for that purpose at such time and under such regulations as the commissioners named in the schedule to it, should prescribe. The act was ordered to be transmitted to the senators and representatives of



Virginia in Congress, together with a copy of the constitution, with the request that they use their endeavors to obtain the consent of Congress to the admission of West Virginia into the Union.

The memorial of the legislature, together with the act granting assent to the erection of the State of West Virginia, and the constitution of the latter were presented in the senate on the 29th of May, 1862. No act was passed, however, until the December, following—approved on the 31st of the month. The act was a conditional one to have force and effect when certain provisions were complied with. The preamble recited the action of the convention, the vote of the people and the assent of the legislature; and recited the counties included within the boundaries as proposed by the constitution, inclusive of Pendleton, Hardy, Hampshire and Morgan, and declared that the constitution was republican in form. It was therefore enacted, “That the State of West Virginia be, and is hereby, declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever, and until the next general census, shall be entitled to three members in the House of Representatives of the United States: Provided, always, that this act shall not take effect until after the proclamation of the President of the United States hereinafter provided for. It being represented to Congress that since the convention of the twenty-sixth of November, eighteen hundred and sixty-one, that framed and proposed the constitution for the said State of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said constitution by striking out the same and inserting the following in its place, viz: “The children of slaves born within the limits of this State, after the fourth day of July, eighteen hundred and sixty-three, shall be free; and that all slaves within the said State who shall, at the time aforesaid, be under the age of ten years, shall be free when they arrive at the age of twenty-one years; and all slaves over ten and under twenty-one years shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the State for permanent residence



therein. Therefore—Sec. 2, Be it further enacted, that whenever the people of West Virginia shall, through their said convention, and by a vote to be taken at an election to be held within the limits of the said State, at such time as the convention may provide, make, and ratify the change aforesaid, and properly certify the same under the hand of the president of the convention, it shall be lawful for the President of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force on and after sixty days from the date of said proclamation.”

On the twelfth of February, 1863, the convention re-assembled and made the change proposed in the act of Congress, and shortly afterwards finally adjourned. It adopted an address to the people of the proposed new State, reciting the several changes in the organic laws, and urging their acceptance of them. The change of the section relating to slavery became the theme of universal comment. The public mind was accustomed to regard the institution as one wholly unsuited to the character and habits of the people of this section, yet the prejudices of the past were not without their potency. To many the question of congressional dictation, as it was termed, was a dangerous acquiescence in a bad precedent. Such arguments were generally at the suggestion of those, whose faith was waning in the cause, or who were in open sympathy with the rebels of the east; few real friends of the movement were affected by them. The address of the convention to the people on this subject stated plainly the issue.

“The objection most insisted on relates to the change of the seventh section of the eleventh article of the constitution. By some it is urged that the imposition of a condition by Congress on the admission of a new State into the Union is a dangerous precedent, and derogatory to those accepting it. This objection comes too late. The precedent is already the rule rather than the exception, as few States have been admitted without the acceptance of some condition prescribed by Congress. Changes of boundary, the taxation of public lands, trial by jury, the use of the English language in public proceedings, as well as the prohibition of

slavery, have been the subjects of these conditions. The admission of new states by Congress is not, under the United States constitution, obligatory, but merely discretionary. The words are: 'New States *may* be admitted into the Union.' It is as true in law as in mathematics, that the greater includes the less. If Congress can constitutionally refuse its consent to the admission of a State, it may certainly prescribe terms of admission within constitutional limits.

"This objection would not probably be pressed if the alleged condition related to some other subject than slavery, or if that subject had not been for so many years an element of party strife. There is so much prejudice, both for and against its existence in any locality, that the merits of a particular case are overlooked or ignored, and the prejudices on the general subject are permitted to decide it. With the latter we shall not concern ourselves in this address, as we do not think the abstract question of the propriety of the continuance or abolition of slavery should affect the vote you are called upon to give. The true question for your decision is, whether the continuance of the slavery existing within the limits of the proposed State promises any practical benefit to its people, and if so, whether the promised benefit is sufficient to induce you to forego the many positive and decided advantages which you can not obtain unless the proposed State is erected?

"There is one class of objectors whom we do not desire to conciliate while they retain their present views, and to whom, therefore, we have nothing to say. Of those who are traitors in heart, if not yet in act, and whose sympathy with rebels in arms has overcome their consciousness of duty to their country, it is sufficient to remark that their opposition is necessarily factious, and their object the injury and not the welfare of their loyal fellow-citizens. But there are others whom we are earnestly desirous to convince that the proposed State is worth greatly more than the price that will, in any event, be paid for it; and that the effort to secure it now, is not only sanctioned but demanded by every consideration of duty to themselves and their posterity.

"The convention at its first session was nearly equally



divided as to the propriety of inserting in the constitution a clause providing for gradual emancipation. There was at that time no one in or out of the convention who contended that the perpetuation of slavery, as it existed in the proposed State, would be of any practical importance. Some desired to avoid the contention the agitation of the question would inevitably engender, while others thought that without the insertion of such a clause the consent of Congress would not be given. It was admitted on all hands, and cannot be denied, that causes, unconnected with the rebellion, and beyond human control, were at work, which within a very few years must extinguish slavery within the proposed State. It was not denied that in a grain growing, manufacturing and commercial community, the labor of slaves is unprofitable, except perhaps as domestic servants. It was known that in twenty-seven of the forty-eight counties there had been a decrease in their respective numbers of slaves from 1850 to 1860, and in only thirteen counties an actual increase. The numbers in the years given were 14,210 and 12,783. The decrease was 2,661, and the increase including those in the eight counties formed after 1850, was 1,234 ; giving a net decrease of ten per cent., or 1,427, to which should be added a number equal to the whole natural increase. Those therefore who opposed the emancipation clause, did not contend that its insertion would injuriously affect the proposed State ; but, on the contrary, insisted, that the causes mentioned above would extinguish slavery more rapidly and surely than any system of gradual emancipation could, if their operation was withdrawn.

“Under these circumstances a compromise clause was agreed on, which received the unanimous vote of the convention, and was inserted in the constitution. It provided, simply, that slaves should not be brought into the State for permanent residence, and was accepted and ratified by the vote adopting the constitution in April, 1862. Thus both the convention and the people have signified their willingness, that the natural causes tending to the extinction of slavery should not be counteracted in their operation. There were slaveholders both in the convention and among the people, who voted for this compromise, and they must be allowed to



be as able to determine what their interests require or permit, as many among the most vociferous of the objectors who have no personal interest in slavery. That it is doomed to rapid diminution, whether aided by law or constitution, or not, must be apparent to every intelligent citizen.

“The question then presents itself for your consideration, whether the great and important advantages you are sure to derive from the erection of the proposed State, shall be postponed until slavery dies the natural death to which it is hastening? This is what you are called upon to do when asked to reject the amendment proposed by Congress. Slavery cannot be perpetuated by its rejection; and, as it exists among us, it cannot be of any service in a public point of view. With or without emancipation, the proposed State will be to all intents and purposes a free State, and its legislation and social condition will necessarily be controlled by that fact.”

The vote on the constitution as amended was taken on the 26th of March, 1863, as provided for by the convention at the session in February, preceding. It resulted in its adoption by a majority of about twenty-seven thousand. The majority, had the ten thousand soldiers in the Union army from the forty-eight counties participated in the election, would have been increased about that number.\* The result having been certified to the President of the United States, as provided for by the act of Congress, he on the 20th† of April, following, issued his proclamation. The convention prior to adjourning in February, 1863, provided that, if a majority of the votes cast at the election in March, should be in favor of the adoption of the amended constitution, then an election should be held on the fourth Thursday of May, following, to choose members of both branches of the legislature, a Governor and other State officers, judges of the Supreme Court of Appeals, judges of the various circuit courts, and county officers. An election was accordingly held at that period, when members of the Senate and House

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\*In the errata to the first edition of this volume it appears that the vote was taken in the various regiments of soldiers in the Federal Army, by agents sent for that purpose, to the regiments of the State enlisted under the re-organized government.

†In the first edition it is erroneously stated as the 19th of April. This correction is made at the instance of Mr. Hagans.

of Delegates were chosen in nearly all of the counties, and Hon. A. I. Boreman, of Wood county, was chosen as the first Governor of the State of West Virginia; Samuel Crane, of Randolph, Auditor; Campbell Tarr, of Brooke, Treasurer; J. Edgar Boyers, of Tyler, Secretary of State, and A. Bolton Caldwell, of Ohio, Attorney General. Hons. Ralph L. Berkshire, of Monongalia, William A. Harrison, of Harrison, and James H. Brown, of Kanawha, were elected judges of the Supreme Court of Appeals. These officers were all chosen without opposition. Judges were also elected in all of the circuits but two, which latter were in the disputed ground between the contending forces of the war. County officers were elected in nearly all of the counties, excepting, perhaps, those embraced in the two judicial circuits just mentioned.

When, therefore, the period of sixty days from the date of the President's proclamation had elapsed, the 20th of June, 1863, the new State of West Virginia had a government, consisting of all the departments, legislative, executive and judicial, provided for by the constitution; justices of the peace and other local officers held over, under an ordinance of the convention, until their successors were elected or appointed. It was not without means either, as the General Assembly of Virginia, by an act passed February 3rd, 1863, granted all the property and the proceeds of all fines, forfeitures, confiscations and all uncollected taxes belonging to and accrued or accruing to that State within the counties embraced in the boundaries of the new State, to it. It also appropriated the sum of one hundred and fifty thousand dollars out of the treasury to the State of Virginia, by an act passed February 4th, 1863. The justice of this latter act, to the people of the new State, can not be questioned, as the whole sum had been collected from them since the reorganization of the government of Virginia.

Governor Pierpoint removed the seat of government of Virginia from Wheeling to Alexandria, prior to the inauguration of Governor Boreman, which took place on the 20th of June, 1863, in Wheeling, which had been designated by the convention as the seat of government of West Virginia, until it should be permanently located by the legislature.



Both houses of the legislature assembled on the same day and began the labor of altering the laws and enacting such others as were necessary to conform to the requirements of the organic law and the condition of affairs.

Thus were the hopes of the people of Western Virginia confirmed by the complete realization of a long cherished desire. They felt released from a bondage no less galling, when the animus of the age is considered, than that of the ancient Israelites in Egypt. They felt too, that although the scheme had been accomplished amid the dire scenes of confusion accompanying civil commotions, yet they had proceeded upon the strong foundations of well-known precedents, established law and incontrovertible principles. Precedents are numerous in monarchical governments, for the restoration of a head when the power in authority usurps any functions not in accordance with the original grant, with how much greater force can the right apply in a republic where the people are sovereign. The reorganized or restored government of Virginia at Wheeling being the true government of the State, *de jure* as well as *de facto*, the consent of its General Assembly to the formation of the State of West Virginia was an incident of its power as undoubtedly as the right to enact any other law. That consent and the assent of Congress was all that was necessary to complete the formation, under the constitution of the United States. If the power or authority of that instrument be denied or defied, as was attempted in the late effort at secession, then indeed is the whole question open to the suspicion of doubt as to its validity and legality. But, if secession is wrong, the question is no longer one for argument; it is truth itself. Secession has been weighed in the balances. In the language of an eminent jurist, "after having been discussed in the senate hall, the cabinet chamber and on the hustings with as much zeal and ability as perhaps any other question ever was, it has been definitely decided by the legislative and executive departments of the national government, and by most of the States also. It has also been tried at the grand assize of popular suffrage, and a true verdict rendered by the American people. And last, but not least, it has been tried and determined by the wager of battle."



To retain the freedom thus acquired, it only remains for the people of West Virginia to keep constantly in view those great cardinal points of patriotism, obedience to law, honor, courage, and devotion to liberty.



# BIOGRAPHIES

## *OF THE FIRST JUDGES OF THE SUPREME COURT OF APPEALS OF WEST VIRGINIA.*

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### HON. RALPH LAZIER BERKSHIRE,

Was born April 8th, 1816, in Bedford county, Pennsylvania. His father, William Berkshire, removed from thence, the year following, to Monongalia county, Virginia, where he continued to reside until his decease in the year 1860, and his son, Ralph Lazier, also resided, and continued to reside in the same county, from the time he was so removed by his father from the place of his birth.

He lived with his father (who was a farmer of limited means) on a farm, near Morgantown, until he was about eighteen years of age, when he went to Morgantown and engaged as an apprentice to learn the trade of a house carpenter, and served out his full term of apprenticeship, and continued to work at his trade for several years after attaining his majority.

In 1838, he commenced reading law in Morgantown, with the late Guy R. C. Allen, a prominent member of the bar in Western Virginia, and was admitted to the bar in 1840, and continued to practice his profession in Monongalia and adjoining counties until the breaking out of the rebellion.

His father, in politics, being a Whig, he was early led to attach himself to that party and adhered to it until the general disintegration of former parties at the commencement of the rebellion, when he promptly espoused the cause of the Union.

He never held any political office, and was never a regular



candidate for any, though his friends in a portion of the congressional district in which he lived, voted for him in opposition to the Hon. Sherrard Clemens, he receiving a heavy vote in Monongalia and a full party vote in several other counties in which it was understood he would be voted for.

Soon after coming to the bar, he was appointed by the county court, prosecuting attorney for Monongalia, to succeed Mathew Gay, Esq'r, who had been the veteran prosecutor for some twenty-four years, and at the expiration of his term was re-elected to the same office by the people under the amended constitution.

In 1861, he was a candidate for the office of Circuit Judge against the Hon. George W. Thompson, receiving a majority of upwards of four hundred in Monongalia, but was defeated in the circuit.

At the first dawn of the secession movement he entered his solemn protest against it and denounced it as unconstitutional, utterly indefensible and fraught with the most direful calamities to the whole country, and as soon as the news of the passage of the ordinance of secession reached Morgantown, on the 17th of April, 1861, he with others called an impromptu meeting to define the position of the loyal people of the county on the momentous issues thus thrust upon them. The meeting was large, enthusiastic, and the most intense interest and solemnity pervaded it. Being put upon the committee on resolutions, he assisted in drafting the following, which were adopted by a unanimous vote of the meeting, and were soon thereafter published in the *National Intelligencer* and other leading papers as the "*first loyal voice from Western Virginia* :"

"Whereas, An alarming crisis now exists in this country imminently threatening the existence of the American Union, and all the blessings of that civil and religious liberty, to secure which our Revolutionary fathers waged and endured all the hardships and privations of a seven years war. And whereas, the present deplorable condition of our public affairs has arisen from the indiscreet and useless agitation of the slavery question in our national legislature by demagogues and selfish politicians North and South.

And whereas, the time has come when it behooves every *true* friend of the Union and his country to rally under the flag and to maintain the same with an unwavering hand and under the most adverse and trying circumstances. Therefore be it

“*Resolved*, That we the people of Morongalia, without distinction of party, deprecate and hereby enter our solemn protest against the secession of Virginia in the present exigency as unwise and inexpedient and fatal to her best interests and the interests of our whole country; believing as we do that, amongst its legitimate and immediate results, will be the utter ruin and bankruptcy and desolation of our hitherto proud and powerful old Commonwealth.

“*Resolved*, That we are attached to the Federal Union as the ark of our political security and safety; that it is endeared to us by the enduring fame and patriotic deeds of its founders, and that we will cling to it despite all the tirades and treasonable threats of the ingrates and traitors who are engaged in the unholy work of firing the Southern heart and precipitating us in the yawning gulf of secession.

“*Resolved*, That secession, as it is practically exemplified in the so-called Southern Confederacy, is unmitigated treason against the Constitution and Government of the United States, and its leading actors, in the language of its prime mover and greatest champion, William L. Yancy, ‘are *traitors*,’ and liable to be treated as such for violating the constitution and laws of their country.

“*Resolved*, That the idea of seceding from the general government of the United States, and attaching Virginia (as the outside sentinel) to the so-called Cotton or Gulf State Confederacy, is repulsive, and opposed to every feeling, sentiment and instinct of patriotism; and the sense of this meeting is unalterably opposed to being dragged into the wake of secession by South Carolina, the hot-bed of political heresies and treason.

“*Resolved*, That Western Virginia has patiently submitted to and borne up under the oppressive policy of Eastern Virginia for the last half century, as shown in her course in denying to *us* equal representation and refusing to bear *her* equal share of the burden of taxation, (in uniformly claiming

and receiving exemption from equal taxation on her slave property;) that now the measure of Eastern oppression is full and that if, as is claimed by her, *secession* is the only remedy offered by her for all our wrongs, the day is near at hand when Western Virginia will rise up in the majesty of her strength and repudiating her oppressors will dissolve all civil and political connection with them, and remain firmly under the time honored stars and stripes.

“*Resolved*, That we hereby tender our thanks to our delegates in Convention, W. T. Willey and M. M. Dent, Esq’s, for their firm stand and active resistance to the extreme and unwise policy of secession, and cordially say to them, ‘Well done good and faithful servants.’”

He was appointed a delegate to the first convention at Wheeling in May, 1861, but was prevented from attending by his professional engagements.

He was also elected by the people of the county, a delegate to the convention of the 11th of June, 1861, which restored and reorganized the government of Virginia. Subsequently the office of Judge of the 9th judicial circuit becoming vacant by reason of the refusal of Hon. George W. Thompson, the former judge of the circuit, to take certain oaths required by the convention of June, 1861, he became a candidate for that office in opposition to Major (now Judge) Good, a leading member of the Wheeling bar, and was elected by a very large majority. He continued to discharge the duties of this office until June, 1863, when having been previously nominated by the Union State Convention, he was elected one of the judges of the Supreme Court of Appeals for the State of West Virginia. On the organization of the court, he drew the short term of four years, and thereby, under a rule of the court, became president of the court during his term. His term will, therefore, expire on the first day of January, 1867.

He is a member of the Methodist Episcopal church, but entertains the utmost respect for and charity towards christians of other denominations.



## HON. WILLIAM A. HARRISON,

The senior member of the court, was born in the ancient town of Dumfries, Prince William county, Virginia, on the 27th day of August, 1795. His education was of the kind peculiar to schools of the day in that country.

At an early age he chose the law for his profession and entered upon the preparatory course with his brother-in-law, the late Obed Waite, of Winchester, Virginia, to whom he always delights to allude as his earliest and most valued friend. After his admission to the bar, young Harrison removed in 1819, to Parkersburg, on the Ohio river, and began the practice of his profession. He qualified first before Judge Daniel Smith, whose circuit embraced the counties of Rockingham, Pendleton, Preston, Monongalia, Brooke, Ohio, Tyler, Wood, Lewis and Harrison, which he traveled every spring and fall. His circuit embraced all the territory between the Pennsylvania line and the Little Kanawha river.

In 1821, Judge Harrison removed to Clarksburg, Harrison county, where he has since resided and been constantly engaged in the practice of his profession, until elevated to the bench.

In 1823, he was assistant district attorney for the District Federal Court, and transacted exclusively the public business at the sitting of the court in Wythe county, whither he traveled on horseback twice a year. After the establishment of the Court of Appeals at Lewisburg, he practiced regularly at its bar until a short time before the breaking out of hostilities in the late rebellion.

His practice during a long life has been one of immense labor, requiring great research and profound investigation; he has appeared before seven Federal judges, fifteen circuit judges and twelve judges of the Court of Appeals of Virginia.

Judge Harrison was never a politician, though all his life a constant adherent to the principles of the old Whig party,

preferring rather the calm, dignified and courteous contests of the bar, to the more animated scenes incident to partisan warfare. He, however, represented the county of Harrison for three sessions in the General Assembly of Virginia. Subsequently he became the District Attorney for the Western District of Virginia, and attorney for the commonwealth in Harrison county.

When the public commotions began to excite universal attention in 1860-61, Judge Harrison early disclosed his intention of remaining loyal to the Federal Government. He was at the Federal capital during the session of the Peace conference in February, 1861, and his observations led him to the conclusion that the lust of power and a wicked effort for self-aggrandizement were the motives which actuated the leading southern politicians in their attempt to dissolve the Union. He took an active and leading position among the Union men in the meetings and measures which resulted in the establishment of the reorganized government of Virginia at Wheeling. The convention which restored the government appointed him a member of the Governor's council, where his experience and distinguished abilities rendered valuable and efficient aid in the work of restoration. The judgeship of the circuit being vacated by reason of the incumbent, Judge Gideon D. Camden's joining the rebellion, he was in the fall of 1861 elected to fill the vacancy, which position he occupied until elected to the bench of the Supreme Court of Appeals of West Virginia, in 1863.

In appearance Judge Harrison is of large stature and commanding presence. He early took a prominent position in the ranks of the legal profession in his section of the country, which contained some of the most eminent lawyers of the day. His powers as an advocate were of a pre-eminent character. Whilst at the bar he earned and justly merited a reputation for courtesy and professional dignity, and as an occupant of the bench adorns it with those qualities of probity and integrity of purpose which render his elevated station an honor to the country and humanity.

In matters of religion he is a Presbyterian, with which church he has been connected for many years.

## HON. JAMES HENRY BROWN,

Was born in Cabell county, Virginia, on the 25th day of December, 1818.

His father, Dr. Benjamin Brown, was a native of the same State, as were his ancestors from the time of their emigration from England. His mother was a native of North Carolina, and daughter of Major Nathaniel Scales. He was educated in the schools of the neighborhood, until he went to Marietta College, Ohio, and subsequently graduated at Augusta College, Kentucky, in 1840. He read law in the office of John Laidley, Esq., of Cabell, and in 1842 was licensed to practice. Impaired health rendered some relaxation necessary. He devoted a few months in the latter part of 1842 to travel. After visiting his relations in the eastern part of the State, he returned home improved in health, to enter upon the struggle of life. In 1843, without fortune, he began the practice of his profession in the counties of Cabell and Logan, and subsequently extended it to Kanawha and the surrounding counties, the District Court at Parkersburg, the Court of Appeals of Virginia and the Supreme Court of the United States.

In 1844, September 12th, he was married to Miss Louisa Beuhring, daughter of Frederick G. L. Beuhring, Esq., of Cabell. He was early drawn into the arena of public discussion, and advocated the annexation of Texas, which was the prominent measure of that day.

In 1848 he removed to Kanawha, and formed a law partnership with his brother-in-law, James M. Laidley, Esq.

In the summer of 1854, he was one of the delegates from Kanawha to the State Convention that assembled at the White Sulphur Springs, to consider the subject of internal improvement; he was chosen one of the vice-presidents, and pressed on its consideration the speedy completion of the Covington and Ohio railroad.

In the winter of 1854-5, he was a delegate to the Democratic State Convention, at Staunton, which nominated Wise



for Governor. He was candidate for State Senate from the Kanawha District, in 1855, but was defeated.

In September, 1856, while on his way to address a public meeting in the vicinity of Charleston, he narrowly escaped being killed. He was thrown from a buggy and carried home insensible, having received several severe injuries on the head and having his ankle dislocated, from which he only recovered in time to vote at the presidential election of that year.

In the winter of 1856, he was delegate from Kanawha to the Congressional Convention, at Parkersburg, which nominated A. G. Jenkins.

Schooled in the doctrines of the fathers of the constitution, he repudiated the modern heresy of secession. While he maintained the just rights and reserved powers of the States and people on the one hand, he defended with equal firmness the constitutional powers of the national government on the other. He denounced secession as tending inevitably to disintegration and the ultimate destruction of all government. He condemned the hostile legislation and unfriendly disposition manifested by some of the Northern States toward the Southern, yet denied that the latter had any just cause of complaint against the national government, or that secession furnished any remedy against the evil machinations of abolitionists and fanatics; but on the contrary, would not only play into their hands but terminate in untold evils to the whole country and in utter ruin and misery to the States and people embarking in the folly and crime of attempted dissolution. He had but little confidence in the opinions and honesty of those who sought to gild the pill of secession, by creating among the people a belief in the fatal delusion of peaceable separation, a fault all the more culpable, because practiced upon the ignorant, the unwary and confiding, even while armies were collected and mobilized, fortresses captured and war actually levied against the national authority, under the direction of organized treason in powerful combination.

In the spring of 1861, while the convention at Richmond was passing the ordinance of secession, he was a delegate from Kanawha to the Union Convention at Parkersburg,

which nominated J. S. Carlisle for Congress. On that occasion several resolutions for the consideration of the convention were drawn up by him, but some of the friends of the nominee preferring that no resolutions should be introduced they were not offered. As they, however, give expression to the views of the writer at an important and trying period in the history of recent events, it may not be out of place to append them below :

“1st. *Resolved*, That we have a country and constitution worthy of our support, the work of Washington and Madison, transmitted to us by our fathers, challenging the admiration of the world. In this glorious Union we have lived long and happily. In it our rights are equal and our liberties safe. Out of it we have no assurance of either. This Union is now attacked by conspirators and traitors, openly and secretly, and every true patriot should rally to its rescue.

“2nd. That the great question which now swallows up all others is the question of Union or Disunion.

“3rd. That the great aim and desire of Western Virginia is to keep the peace of the Union if possible, failing in that, to keep the peace in her own borders.

“4th. That to this end, in the present crisis of impending war, it is the true policy of Virginia to observe a position of neutrality and leave those who began the war to enjoy its blessings to their heart's content.

“5th. That we fear no invasion from the United States, to which we owe and acknowledge allegiance, and will not tolerate any invasion from the Confederate States now in a state of revolution.

“6th. That taxation should be equal and uniform throughout the State, and that the odious and unjust discrimination which exempts two hundred millions of slave property from taxation entirely, ought to be expunged from the State constitution.

“7th. That any and every attempt of an eastern mob, led on by secessionists and disunionists to overawe and intimidate the representatives of the people in their deliberations

in the State Convention is an insolent outrage and a direct attack upon the liberties of the people.

“8th. That the declaration of eastern secessionists to revolutionize the State, if Western Virginia shall stand by the Union, is a threat and offense to the people of the west, which will not be overlooked; and we say here that if the east are ready to divide the State, we will meet them half way, ‘as friends if they will, as foes if we must.’ ”

After the adjournment Mr. Brown was invited to remain and address a mass meeting of the people along the borders of Virginia and Ohio, at Parkersburg, which he did, in conjunction with Daniel Frost and others. The effect was to deepen the Union feeling and unite the Union people.

Arriving at Point Pleasant, just after Judge Brockenbrough, of the United States District Court, had made a speech to the people there in favor of secession, Mr. Brown was desired by the Union people to remain and speak on behalf of the Union the following day, which he did, and was replied to by Judge Ward. The loyalty of the people of this section was soon after shown by the majority they gave at the polls for the Union.

On reaching his home in Charleston he found the excitement intense. The same boat brought the news of the passage of the ordinance secession. The anxious inquiry of the people was, “what shall we do?” His answer was, “vote it down.” And that was the burden of his speech and the object of all his efforts till the election was over.

During his absence, he and Lewis Ruffner had been nominated by a Union mass convention of the people of Kanawha, as candidates for the legislature, Messrs. T. B. Swann and B. S. Thompson were the disunion candidates.

The passage of the ordinance, the activity and zeal of most of the leading men of the county, backed by a military force, had given secession the ascendancy, and greatly depressed the Union people. Mr. Brown addressed the people in every section of the country. His opponent, Mr. Swann, was in the army, then in camp in the Kanawha Valley. The report became current that the military would suppress at the polls all opposition to the ratification of the ordinance of



secession. Instead of intimidating the people it only tended to arouse them, so that Mr. Brown in meeting his public appointments through the county, in some instances, addressed crowds of mountaineers assembled in the forests, who held their trusty rifles in their hands, while they listened for the Union resolved to vote or fight.

At the election which soon followed on the 23rd of May, 1861, the majority in the county of Kanawha against the secession ordinance and in favor of the Union candidates was overwhelming and exceeded all expectation.

During the occupation of the Kanawha Valley by the rebel forces under Wise, Mr. Brown remained at home a quiet spectator of events. Being obnoxious to the ruling dynasty, and no friend to the Pseudo-Confederacy, he was, of course, like many other Union men, treated to the courtesies of rebel insolence, which he has lived to see mollified by times and circumstances.

He warned the people that secession executed would result in a division of the State of Virginia, as certainly as the dripping clouds on the crest of the Alleghanies parted their waters to the east and west.

When the convention at Wheeling submitted the question of a new State to the vote of the people, and the flight of the rebel troops relieved them from military duress, Mr. Brown advocated the division, as the only alternative left the loyal people of the west. He was elected to the convention to frame a constitution for the proposed new State of "Kanawha" the name of which was afterwards changed to that of "West Virginia." He took his seat also in the legislature of Virginia at the first regular session held in Wheeling in December, 1861, and took an active part in the proceedings of both bodies of which he was a member at the same time.

In the winter 1861-2, he was elected and commissioned judge of the 18th judicial circuit of Virginia, in the place of the Hon. David McComas, who embarked in the rebellion and thereby lost his office.

On the 14th of January, 1862, he tendered his resignation as a member of the legislature to take effect on the 24th of that month.

On the 18th of February, he resigned his seat in the convention, and on the day following qualified to his commission as judge of the 18th circuit. He entered at once on the duties of his judicial office, and amid many perils and great discouragements, held court in every county of his circuit. The records of his courts were captured and carried off or destroyed as fast as he made them, in many of the counties of his circuit, by the rebel raiders who continually made hostile incursions into that part of the State. And on several occasions he narrowly escaped their repeated efforts to capture the court.

On the 5th of February, 1863, he was re-elected to the constitutional convention, to fill the vacancy from the county of Kanawha occasioned by his own resignation, and took his seat in that body on its re-assembling to consider the amendment to the constitution proposed by Congress. He disapproved the action of Congress in refusing to admit the State of West Virginia into the Union with the constitution as adopted by the convention and ratified by the people, with the consent of the legislature of Virginia. Nor did he think any better of the congressional dictation manifested in the condition precedent to such admission, which required the adoption of the emancipation clause, at a time and under the unexampled pressure and force of circumstances, that left the people no alternative but to adopt it, in order to secure their right to recognition and admission as a State of the Union, or by rejecting it, be forced headlong into a counter revolution, in the very midst of a pending civil war of the most fearful character. Under such circumstances, he accepted the inexorable logic of events, and voted for the congressional amendment, not only as a member of the convention, but also as a citizen at the polls, and advocated in public speeches a like course by the people. As a member of the convention he introduced many propositions, among which the most important were the following: "That the State of West Virginia should assume a just proportion of the State debt of Virginia prior to the ordinance of secession; that private property should not be taken for public use, without just compensation to be provided for in the law authorizing the deprivation; that it was unwise and impo-

litic to distract the counsels of the convention by the discussion of the slavery question."

He proposed the extension of the boundaries of the new State. Was opposed to the restriction of the right of suffrage to tax-payers, and to the restrictions upon internal improvements by the State, also to very low salaries of officers, and short terms of Senators. As chairman of the committee on the judiciary, he had much to do in shaping the structure and framework of that department of the State government. He took an active part in the duties and labors of several other committees, among the most important of which were the committees on fundamental provisions, the legislative department, and the committee of revision. To him, the animated and exciting duties of the bar were more attractive than the calmer but more perplexing duties of the bench.

As a *nisi prius* judge, he ever sought to be courteous, yet prompt and decided, ready to hear all that could be said on either side, but when the case was decided the controversy ended. No appeal has ever, as yet, been taken from his decisions.

In the legislature he introduced numerous propositions looking to the prosperity of the State and the safety of the people, among which were the Elk river railroad now converted into the West Virginia Central, bisecting the State east and west, and the Charleston and Winchester railroad, bisecting it north and south; the separation of the Kanawha river improvement from the James river and Kanawha company and the defence by the State and the border counties against rebel raids.

On the subject of slavery he had his own views, differing in some respects from many with whom he acted. A slaveholder by inheritance, he recognized the relation and its correlative duties. He regarded the institution as an evil, destined to disappear under the influence of christianity, the principles of the declaration of independence, and the bill of rights of Virginia. He was unwilling to invade the rights of property or rudely disturb relations which had grown up under the laws and customs of two centuries, and which had become interwoven with the whole structure of



society and government. He was, however, in favor of the doctrine of freedom to the *post-nati*, by an act of the legislature, as soon as the circumstances of the State would admit, and a full and free action of the people could be had to determine with wisdom and prudence the future policy on so important and delicate a subject. To that end he was in favor of keeping the constitution of the State of West Virginia free from the trammels which the constitution of Virginia had placed upon the legislature on that subject, but he thought it impolitic to go further, while engaged in a war for very existence, society greatly disorganized by internal convulsions and a large proportion of the counties composing the contemplated new State, though deeply interested in the subject, unrepresented by reason of their occupation by rebel forces, and no prospect of their people being able to vote upon the adoption of the proposed constitution, during the continuance of the war.

In matters of religion, he favors the largest liberty of conscience. Is a member of the Presbyterian church, and for many years a ruling elder.

On the 28th of May, 1863, he was elected judge of the Supreme Court of Appeals of West Virginia and commissioned by the Governor in June following.

















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